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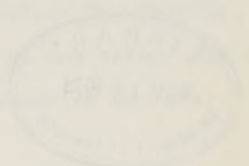
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Ontario. Legislative Assembly. Select Committee
on the New Ontario Hydro Building

Hearings. v. 9. July 31 - Aug. 27, 1973. (38)

00/9



LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Tuesday, July 31, 1973.

Afternoon session

1581-1616



1281-1821

July 31, 1973
2.05-2.10 p.m.
M.F.

H - 1581 - 1

ONTARIO LEGISLATURE -
SELECT COMMITTEE - HYDRO HEADQUARTERS

The committee met at 2.05 o'clock p.m. in the members' board room.

Mr. Chairman: Ladies and gentlemen, I call the meeting back to order, and welcome you back to the table of honour, Mr. Bradshaw.

Mr. Bradshaw: Mr. Chairman, Mr. Shibley: Mr. Shibley, I wonder if I would be permitted to enlarge on one thing that I said before lunch that I now was able to check my docket?

Mr. Shibley: Yes, surely.

Mr. Bradshaw: You had asked me whether we discussed the so-called wrap-around with Equitable in New York. I said I didn't think we had, but I wasn't positive.

In reviewing my docket, I have discovered that in August before -----

Mr. Shibley: August '72?

Mr. Bradshaw: Yes. In August, '72, before I went to New York with Mr. Moog -- I will just give you the exact date -- August 7th, '72, Mr. Moog was at my office and together we placed a phone call to Switzerland to a gentleman whose name I am not going to read out for the record, but I will be glad to write it down and give it to you, if you like.

Mr. Shibley: Well, I am only interested to know whether it was one of the gentlemen that was at the meeting on August 13, 1971.

Mr. Bradshaw: All I know is the name of the gentleman.

Mr. Shibley: Then I would like to have the name please. All right.

Mr. Bradshaw: I hope I spelled it right here.

Mr. Shibley: All right, you had a -----

Mr. Bradshaw: Now part of that conversation was in English and part of it was in German, and I can't speak German, I don't understand German, so I don't understand the German part,

July 31, 1973
2.05-2.10 p.m.
M.F.

H - 1581 - 2

(Mr. Bradshaw)

but I do understand, or my impression from the conversation was, that there was no possibility whatsoever of borrowing in Switzerland for the Hydro project at that time. Now this is in August of '72, after I had been instructed to prepare the agreements, and I understand the reason that there was no possibility was because Hydro had itself borrowed in Switzerland, and their rules of this - coming back ^{to it} ~~with~~ the syndicate of banks - is that ^{there} you can't, you know, once you have borrowed your 80 million francs, you can't borrow it again right away, you have to have some time period, I don't know whether it is a year or a year and a half.

So on the basis of that I would now be more confident in my answer to your question, and say that we did not discuss a wrap-around with Equitable.

The other thing I discovered when I read my docket is that I had two meetings with Mr. Moog and Mr. Johnson at Ames, one in October and one in November in 1971. There is no record of any telephone calls, so that -----

Mr. Shibley: Would you give me those dates again, please?

Mr. Bradshaw: I might point out that there are lots of other things on these dockets, other things we have done, you know, the whole office was doing for Mr. Moog, so that is why -----

Tape H - 1582 follows

July 31, 1973
2:10 - 2:15 pm
JLP

H-1582-1

~~(Mr. Bradshaw)~~

(Mr. Bradshaw)

Yes, the first meeting was on October 25, and the second meeting was on November 11.

Mr. Shibley: November 11, 1972, and —

Mr. Bradshaw: No, 1971. These are October 25, 1971 —

Mr. Shibley: And November 11, 1971.

Mr. Bradshaw: October 25, 1971, and November 11, 1971.

Mr. Shibley: And that was with Johnson of Ames?

Mr. Bradshaw: Johnson was in attendance at both those meetings.

Mr. Shibley: Did you have any other meetings with Ames, other than with Johnson?

Mr. Bradshaw: No.

Mr. Shibley: And did you not have any meetings with Ames in 1972?

Mr. Bradshaw: I went to see company X with Johnson.

Mr. Shibley: Yes.

Mr. Bradshaw: And I attended one other meeting with Mr. Bellamy of Ames and Mr. Moog. The other thing I discovered, Mr. Shibley, was that I prepared ^{the} ~~a~~ memo, that we were talking about just at the end, for Mr. Houser according to my docket, so I must have given it to him.

Mr. Shibley: Well, that solves a problem then. That's the memo —

Mr. Bradshaw: That's the memo that ~~was~~ entitled "High Lease" ~~Credit~~, dated September 22, 1972.

Mr. Shibley: Then, Mr. Chairman, may I have that made the next Exhibit please?

Mr. Chairman: Mr. Hodgson, if I number that number 194, will that be all right with you?

Mr. Glen Hodgson: Yes, that'll be fine with me.

Mr. W. Hodgson: You're identifying which Mr. Hodgson that was, are you?

Mr. Shibley: Mr. Bradshaw, returning to the telephone conversation that took place on August 7. You say that took place from your office — is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: And was it a conference type call where you were able to participate in the discussion?

Mr. Bradshaw: Yes.

Mr. Shibley: In other words, you have a unit on your phone where —

Mr. Bradshaw: Just two extensions of the same phone; one is in the corner and one is on my desk.

Mr. Shibley: So that both you and Mr. Moog were on the phone to this gentleman in Switzerland. Is that correct?

Mr. Bradshaw: Yes, Mr. Shibley.

Mr. Shibley: And with respect to the borrowings by Hydro that had already taken place within that year, was it borrowings made by Hydro with that same bank?

Mr. Bradshaw: My understanding was that it was with another member of the syndicate, of the group of banks.

Mr. Shibley: Represented by that individual?

Mr. Bradshaw: No. My understanding is this individual was a little exercised that somebody else ^{had} that Hydro had borrowed through one of his competitors, but it was still a member of the group of banks, ^{the} ~~a~~ syndicate of banks, that was placed with the same underwriters; the same group of banks ^{were} ~~was~~ the underwriters, but the lead underwriter was one of his competitors.

Mr. Shibley: But that bank was one of the participants in the syndicate?

Mr. Bradshaw: They participate in them all. My understanding, Mr. Shibley, is it's a group of banks which do these underwritings and there's a different lead underwriter, the one that arranges it and, of course, ~~it~~ gets the biggest part of the commission.

Mr. Shibley: When was the borrowing by Hydro from that syndicate as it related to August 7, 1972?

Mr. Bradshaw: I'm sorry, I don't know Mr. Shibley. Perhaps Hydro could tell us.

Mr. Shibley: Mr. Nastich has got his hand up and maybe we can clean this up quickly.

Mr. Nastich: August 31.

Mr. Shibley: Of what year?

Mr. Nastich: 1972. The lead manager was the Union Bank.

Mr. Genest: I'll translate. " It was August 31, 1972,
and the lead underwriter in the Hydro issue was the Union Bank of
Switzerland?"

~~Mr. Shibley: Now, Mr. Bradshaw, do I take it the purpose
of the Carl~~

(Tape H-1583 follows)

July 31st, 1973

2.15 - 2.20 pm

H 1583 - 1

AA

(Mr. Shibley)

Mr. Shibley: Now, Mr. Bradshaw, do I take it that the purpose of the call on August 7th, 1972, to this gentleman in Switzerland

Mr. W. Newman: Mr. Chairman, excuse me, I don't want to interrupt, but just when did Hydro start negotiating this situation from where they got their loan in August of 1972/~~1974~~. What date did they start negotiating?

Mr. Nastich: Do you want me to tell Mr. Genest, or do you want me to

Mr. ~~Mr~~Bradshaw: Would you like to sit here?

Mr. Chairman: No, if you would tell Mr. Genest please.

Mr. Genest: Before August 7th, I am told, Mr. Chairman

Mr. Shibley: August 7th of what year?

Mr. Genest: 1972.

Mr. Shibley: But this was consummated, I gather, on August 31. Can you be more precise as to - Mr. Newman wants to know when you commenced negotiations for that loan.

Mr. Nastich: Well essentially, the Province had ^{line} ~~the lineup~~ ~~in the queue~~ - you have to line up for Swiss money.

Mr. Shibley: Yes.

Mr. Nastich: And the Province of Ontario was the one that was supposed to be in the queue, but a Swiss law had been passed during 1972, which precluded any provincial agency borrowing through the major syndicate. Therefore, the Province of Ontario ~~gave~~ us, Ontario Hydro, their place in the queue and I think this happened somewhere early in August or late in July that we were informed, and I can get the date for that.

Mr. Shibley: When did the province get in line?

Mr. Nastich: A long time ago. We have been in line for several years.

July 31st, 1973

2.15 - 2.20 pm

H 1583 - 2

AA

(Mr. Shibley)

Mr. Shibley: No, but as for this loan, when did the province, so to speak, take a line position for Swiss money that ultimately came through to Hydro in August of 1972?

Mr. Nastich: I'll have to get that information
Mr. Shibley.

Mr. Shibley: Would it have been some months prior to August of 1972?

Mr. Nastich: My recollection is that it would have been several years that we have had our name in the - both Ontario and Ontario had their name in the queue in order to get to the Swiss money but it is a very long waiting period and this was the first opportunity.

Mr. Shibley: I would like to have, for the benefit of this committee, a precise answer to MR. Newman's question, namely, when did Ontario establish a line position/- they use that ~~term~~ term for buying aircraft, I understand - when did Hydro establish a line position for Swiss funds which was taken over by Hydro . . .

Mr. Genest: You mean London, Ontario.

Mr. Shibley: Yes, London, Ontario. - establish a line position for Swiss funds, which position was handed over to Hydro for its August 31, 1972, financing?

Mr. Genest: Inasmuch as I don't act for the government, I can't undertake to get anything out of government files, if it requires that, but ~~except~~ to the extent that it is in within the power of Hydro, I will undertake to obtain that information.

Mr. Shibley: All right. Thank you. Getting back to the telephone conversation, Mr. Bradshaw, that you say took place, this three-way conversation on August 7, 1972, I take it from what you say that the purpose of that conversation was to further investigate the possibility of Hydro obtaining

July 31st, 1973

8.15 - 2.20 pm

H 1583 - 3

AA

(Mr. Shibley)

funds from the bank represented by that individual for Hydro's head office building. Is that correct?

Mr. Bradshaw: Yes, I think the purpose, if I could be permitted to rephrase it, I think it was the purpose to see whether those funds, whether this source of funds was still open.

Mr. Shibley: Yes. For the Hydro head office building?

Mr. Bradshaw: Yes.

Mr. Shibley: Well, now, members of the committee ~~were~~ without identifying the person, I can advise the committee that the person with whom this telephone conversation was held was again one of the two people who were in the Swiss bank at the meeting of August 13, 1971. So that Mr. Bradshaw, I take by his last answer is indicating that as of August 7 - is that the day you gave me - yes August 7, 1972, Mr. Moog was still making enquiry of that same bank as to whether those funds were ~~on available~~ available for the Hydro head office building. That is correct, is it not, Mr. Bradshaw?

H 1584 - 1 follows

July 31/73

2:20-2:25 pm

C.B.

~~(Mr. Shibley)~~

~~bank as to whether those funds were available for the Hydro head office building. That is correct, is it not Mr. Bradshaw?~~

Mr. Bradshaw: That was the date, *August 7*

Mr. Shibley: And that was the purpose of the call.

Mr. Bradshaw: To see whether that Swiss financing

was available.

Mr. Shibley: Yes, and were you then talking of

full Swiss financing? I'm talking about \$40 million spread over two installments a year apart.

Mr. Bradshaw: Not that I know of. I believe,

Mr. Shibley, I tried to make this point before lunch and I'm not sure that I did make it. My understanding was not that there had been any kind of an understanding reached ~~with the Swiss bank~~ with the Swiss bank, that this earmarked moneys or anything like that. There is nothing by way of a commitment. All it was, was this type of financing would be available.

Mr. Shibley: I understand that.

Mr. Bradshaw: And the question of whether or not

it would be available twice, separated by a year or not, which would be, I assume, the way you ~~were~~ ^{is} going to have to do if you ~~would~~ ^{it} ~~secure~~ your full financing, as you know, ~~is~~ ^{it} is again a question of just availability and not a question of an understanding, of a concluded agreement.

Mr. Shibley: I understand, Mr. Bradshaw, and I'd like

you to understand my problem at the moment so that you can put my question in context. On July 19, Mr. Candy is reporting to Hydro that the developer, namely Canada Square, anticipates that the whole financing is going to be Swiss, and apparently at some time between March 30 and July 19, Mr. Candy is also informed that it was to be a two-installment arrangement, one

July 31/73

2:20-2:25 pm
C.B.

(Mr. Shibley)

year apart, I think Mr. Moog himself said that it was to be with the same institution. Mr. Moog himself says he didn't talk to any other Swiss bank~~s~~, he talked to other friends in the financial field, but again not regarding Hydro. But the only bank he had talked to as of July 19, was the same Swiss bank he had visited on August 13, 1971.

Now you tell us that on August 7, the matter was the subject of a telephone conversation in which you participated, and against the background of what I've told you ~~as~~ already a matter of evidence to try to relieve you of responsibility in certain areas. I want to know whether there was pursuit of a two-installment payment plan with that bank so that the whole of the financing would be Swiss?

Mr. Bradshaw: To the best of my recollection, Mr. Shibley, ~~I~~ ^{and} I only remember the thing after I go through the ~~ockets~~ ^{ockets}, and part of the conversation was certainly in German and ~~part of it was in English~~ ^{part of it was in English}.

Mr. Shibley: Yes.

Mr. Bradshaw: ~~That was~~ To the best of my recollection, ~~we~~ we didn't discuss that, and it could well be that we wouldn't discuss that because I think as soon as the conversation started the guy said there wasn't any money available at all because Hydro had already borrowed it through their competitor.

Mr. Shibley: Is that when they switched into German?

Mr. Bradshaw: I think the man became somewhat excited and Moog talked to him in German. My recollection is, my impression from the conversation, and it may not just ~~have~~ ^{have} been only what I heard there, but also the subsequent discussion about it.

Mr. Shibley: Yes.

Mr. Bradshaw: Which of course is privileged. ~~which~~ I can only tell you ~~my~~ overall impression was ~~it was~~ ^{that} it was ~~very~~ ^{very} ~~that~~.

July 31/73
2:20-2:25 pm
C.B.

(Mr. Bradhsaw)

quick. It wasn't a long conversation, and the impression was that there wasn't any money for us, for Hydro.

Mr. Shibley: Well, did you also get the impression that this was a change of posture on the part of that bank from what it had been up until that time? What I'm wondering about, and I'll put it very clearly to you, I'm wondering whether as at July 19, Mr. Moog expected full financing, Swiss, from this source; they then discover that there has been a lending to the Hydro within the year, which is a bar in Switzerland to advancing further funds. Did you get any of that out of that conversation?

Mr. Bradshaw: I would be glad to help you if I could on that Mr. Shibley, but I can't. ~~My~~
recollection. *18*

Mr. Shibley: I want to make clear, I'm just speculating.

Mr. Bradshaw: Sure.

Mr. Shibley: ~~at~~ at the moment, and I wondered whether you had heard anything that might clear this up. Because I'm still trying to reconcile what Candy was telling the Commission, which I have to attribute as having emanated ~~from your client Mr. Moog and trying to make some sense out of that if you follow me~~

Mr. Bradshaw: Right.

Mr. Shibley: Now.

H1585 to follow

July 31, 1973
2.25 - 2.30 p.m.
M.R.

(Mr. Shibley)

~~and~~ from your client, Mr. Moog, and trying to make some sense out of that, if you follow me.

Mr. Bradshaw: Right.

Mr. Shibley: Now, was it any part of the discussion with that same bank on August 7 that a put-through deal had been considered?

Mr. Bradshaw: My recollection of the conversation doesn't include any discussion of a put-through deal, Mr. Shibley.

Mr. Shibley: You see...

Mr. Bradshaw: I do believe that what happened was before any proposal could be put up to the bank that the gentleman on the other end indicated that ~~there~~ there was no money available.

Mr. Shibley: I realize that, Mr. Bradshaw. You can't help us, I don't believe, as to what other communications might have taken place however, and I'm going to ask Mr. Moog about that. ^{But what} I want to know from you at the moment is this: Was ~~there~~ anything said in English that you overheard as part of that conversation that would reflect what is already in evidence that on June 21 Mr. Moog was memoing himself that he was going to try for a lower rate of interest with Equitable by putting Swiss money through Equitable?

And I want to know whether he was still pursuing that thought as late as August 7, 1972, when he dealt with that bank?

Mr. Bradshaw: There was nothing in that conversation that I can recall that would indicate ~~that~~ that that was what he was doing, but on the other hand, there was nothing in the conversation I recall that he was going to get it all in Switzerland. It had to be one or the other, if it was going to work. ~~either~~ either had to combine it with some American or Canadian money or you had to get it all in Switzerland, so surely one of those things would be in Mr. Moog's mind.

July 31, 1973
2.25 - 2.30 p.m.
M.R.

(Mr. Bradshaw__

As far as I can recall from the conversation, neither was discussed because the gentleman on the other end said there was no money available for Hydro.

Mr. Shibley: Because of this rule?

Mr. Bradshaw: No, because the Hydro had borrowed.

Mr. Bullbrook: Could you help me, Mr. Shibley, I just don't understand, I guess, the more delicate or refined terms of this. Do I ~~understand that the Hydro had borrowed~~ first of all ~~the Hydro had borrowed~~ properly equate a wrap-around and a put-through, and do I understand Mr. Bradshaw to say that it could only work if it was to be a wrap-around or put-through and if we can equate them? That all the funds would be Swiss funds? I just didn't understand that.

Mr. Bradshaw: Could I explain that again?

Mr. Bullbrook: Yes.

Mr. Bradshaw: Mr. Bullbrook, if you can only borrow \$20 million in Switzerland, then you've got to combine that with some other financing. I don't consider there to be anything sinister about that.

Mr. Bullbrook: Nor do I.

Mr. Bradshaw: You have to borrow in some other market. If it's a \$45 million deal or \$50 million deal you've got to borrow another \$30 million.

Mr. Bullbrook: Right.

Mr. Bradshaw: Now, if you're going to use the Swiss funds of \$20 million and this is \$30 million, then you've got to tailor the two together because the Swiss funds as we know were only available for 15-year fixed term without any amortization, and we have here a deal that was proposed to Hydro of a 30-year lease with amortization, so the ~~funds~~ ^{funds} in Canada and the United States had to be prepared to have rather an unusual loan. They had to put their money out with the Swiss money, they had to accept faster payments ~~than~~ in the early years than from what they would normally get because the Swiss bankers

July 31, 1973
2.25 - 2.30 p.m.
M.R.

(Mr. Bradshaw)

and public didn't want any money back, and then they had to be prepared to pay the Swiss off at the end of 15 years and take the whole loan themselves at that point. So what you do is you get a kind of unusual situation where the lender here is putting out his money, getting paid faster than he would normally get and then having to put more money out at the end of 15 years. This is pretty complicated. Now, if you are going to use Swiss money, \$20 million only, you've got to do it this way.

Now, if on the other hand, you are going to use all Swiss money and their limit is \$20 million, you've got to go back to them twice and if you are going to work in any Swiss money those are ~~the problems~~ some of the problems you've got to overcome.

So, to my way of thinking, it's going to be one or the other. ~~the other~~ If you are going to discuss with ^aSwiss lender, you are either going to have to discuss the fact that he is going to be only providing part of the funds and that somebody else is going to be wrapping-around or taking the funds and re-~~was~~ loaning them, ~~—~~

H-1586 to follow

July 31, 1973
2.30-2.35 p.m.
M.F.

H - 1586 - 1

(Mr. Bradshaw)

~~you are either going to have to discuss the fact that he is~~
~~going to be only providing part of the funds and that somebody~~
~~else is going to be wrapping around it, or taking the funds and~~
~~reloaning them,~~ or the alternative is that he is going to lend
it twice, and he has got to commit now and he has got to commit
for a year from now.

Mr. Bullbrook: I just - all right, I am sorry.

Mr. Shibley: Go ahead.

Mr. ~~Sh~~ Bullbrook: I just wanted to - and I don't want
to divert or digress, but I want you to know that during the
course of Mr. Moog's testimony, he used the phrase "possibility of
a sinking fund", and I am not suggesting it is very relevant here,
but did you entertain the possibility of establishing a sinking
fund?

Mr. Bradshaw: We thought about - I mean, but that is
not the typical type of sinking fund any more, that is the old-
fashioned kind where you take the money and you put it in non-
interest bearing perpetuals for four years, or whatever period
of time it is, until it has to be repaid, and it is very
unattractive because you get a very low rate of interest.

Mr. Shibley: I just want to return to the purposes of
a put-through deal with you, Mr. Bradshaw. A put-through deal
would first of all solve the amortization problem, provided the
U.S. institution was prepared to accept amortized payments, and
in its turn repay the Swiss on the terms of repayment stipulated
for by them. Is that correct?

Mr. Bradshaw: Correct.

Mr. Shibley: It would also solve the problem of the
balloon payment at the end of 15 years if the company through
which the funds were put was prepared to pick up where the Swiss
left off after 15 years. Is that correct?

Mr. Bradshaw: You mean to pay back the Swiss?

July 31, 1973
2.30-2.35 p.m.
M.F.

H - 1586 - 2

Mr. Shibley: Yes.

Mr. Bradshaw: Without more money? That is right.

Mr. Shibley: That's right. And would it not also solve the problem of the Swiss already having loaned Hydro its \$20 million within the year, if the loan from the Swiss was being made to Equitable or the X company?

Mr. Bradshaw: Well if they would loan to them but I don't think anybody suggested that they would loan the money to Equitable or X company.

Mr. Shibley: But on a put-through deal the loan would be - let's say Equitable had been -----

Mr. Bradshaw: No, no, the loan had to be on the security of Hydro.

Mr. Shibley: I am not talking about the security, Mr. Bradshaw, I am ~~g~~ talking about the entity to which the loan would be made; on a put-through deal the loan would be made to Equitable on ~~the~~ ^{the} security of an assignment of the Hydro lease?

Mr. Bradshaw: Well I guess probably there are two ways that you could do it. You could loan the money to Canada Square, and Equitable loan the balance to Canada Square, and agree -----

Mr. Shibley: No.

Mr. Bradshaw: I am sorry, Mr. Shibley, there are two ways here.

Mr. Shibley: Okay, go ahead.

Mr. Bradshaw: This is ~~the~~ one way and we were thinking of all of the alternatives. I mean the both loans could be made to Canada Square with an obligation by the insurance company, Equitable, to repay the Swiss loan at the end of its term.

Mr. Shibley: Fine. All right, that is good.

Mr. Bradshaw: Or alternatively, the loan could ~~be~~ ^{be} made to the insurance company and the insurance company pay the low rate of interest on that and then loan the whole thing to Canada Square.

Now, that second proposition is something that I have

July 31, 1973
2.30-2.35 p.m.
M.F.

H - 1586 - 3

(Mr. Bradshaw)

never found that an insurance company was the slightest bit interested in, and the reason for that is that insurance companies don't borrow money. Insurance companies, their business is to take the premiums that come in and loan the money. Their problem is placing money out at interest other than borrowing, and indeed at one point in our conversations with Equitable, we discussed the possibility of them advancing some money to us and then we loaning it back, and this was a timing problem rather than discussing it in connection with any wrap-around or put-through.

We have never in our history shown a loan payable by us in our financial statements, and we are not about to start doing it. So I think you will find, Mr. Shibley, and you know I am not an expert on this -----

Mr. Shibley: You sure sound like one.

Mr. Bradshaw: But I think you will find if ~~you discuss~~ you discuss this with anybody in the insurance industry, ~~that~~ the large institutional investors, that they will be very loathe to - they will tell you they just don't borrow money and reloan it.

Mr. Shibley: But I am going to put this situation to you which is the very situation that Mr. Moog outlined in his memorandum of June 21 to somebody -----

Mr. Bradshaw: Pardon me, his memorandum of June 21?

Mr. Shibley: June 21, yes, exhibit -----

Mr. Bradshaw: Is that the one to Art Keegan?

Tape H - 1587 follows

July 31, 1973
2.35 - 2.40 p.m.
M.R.

~~(Mr. Shibley)~~

~~somebody~~

~~Mr. Bradshaw: Pardon me, it's my memorandum of June 21.~~

~~Mr. Shibley: June 21 you exhibit~~

~~Mr. Bradshaw: Is that the one Art Keegan?~~

Mr. Shibley: Exhibit 189 - have you got it in front of you?

Mr. Bradshaw: No.

Mr. Shibley: Well, in any event - I'll give it to him. You see, the bottom paragraph - if you read the whole of it, the first part of it he's talking about ~~what~~ what the cost of a straight loan would be in the order of eight and a half to nine percent and then he says, "I suggest that we work a put-through deal whereby we organize funds for Equitable in Switzerland, Equitable charges a minimum mark-up, loans us the money with us compensating for exchange risk." And I think Mr. Moog said that they might want a quarter point for doing this put-through.

Now, in the circumstance where an insurance company is not able to deal with its own funds because the borrower doesn't want to borrow at eight and a half to nine per cent, and in the further circumstance that this borrower says, "No, I don't want your money out of your pot at eight and a half or nine, but I'll tell you what I'm going to do, I'm going to organize funds for you out of Switzerland and ask you to process that money through your firm to me and just for the accommodation, without your putting up a nickel, Equitable Insurance Company, we're going to pay you one quarter of one ~~per~~ per cent for 30 years on \$45 million, that's not the same situation that you were describing earlier, is it?

Mr. Bradshaw: And if they tell you politely, "No, thank you."

Mr. Shibley: Pardon?

July 31, 1973
2.35 - 2.40 p.m.
M.R.

(Mr. Bradshaw: I think they'd tell you politely,
"No, thank you."

Mr. Shibley: I see.

Mr. Bradshaw: ^{But} you can certainly get better
evidence than mine on that.

Mr. Shibley: Well, I notice Mr. Moog, who is fairly
astute, considered it sufficiently worth trying that he discussed
it, according to this memorandum with someone from Equitable?

Mr. Bradshaw: Art Keegan, one of the field men.

Mr. Shibley: Yes.

Mr. Bradshaw: I'm sure that Art Keegan and
Mr. Moog had a delightful conversation about it, ^{beginning "Hey this} ~~is~~ is a
great idea, because Mr. Keegan likes to place money and Mr.
Moog likes to borrow it.

Mr. Shibley: Yes.

Mr. Bradshaw: But when you got back to talk to
the guys in New York they weren't interested.

Mr. Shibley: I see. Well, was the ~~the~~ ^X company
interested?

Mr. Bradshaw: As far as I know, Mr. Shibley, it
was never discussed with the ~~the~~ ^X company at all.

Mr. Shibley: I see.

Mr. Bradshaw: We had this telephone conversation
with the gentleman in Switzerland.

Mr. Shibley: Yes?

Mr. Bradshaw: ~~Before~~ Before I met with Mr. Moog at
Equitable and before Mr. Coles and I went to talk to the ~~the~~ ^X
company, ~~and~~ we weren't talking about put-throughs or wrap-
arounds or anything at that point, we were trying to raise
\$45 million at the best interest we could.

Mr. Chairman: May I ask you why they would say
"No, thank you,"?

Mr. Bradshaw: Mr. Chairman, my understanding is,
and I guess maybe I didn't make it very clear, is that ~~there~~
their job - the investment department of the company is to ^{place} ~~place~~

July 31, 1973
2.35 - 2.40 p.m.
M.R.

Mr. Chairman: The reasons you gave earlier is that they had lots of money of their own, is that it?

Mr. Bradshaw: This is their function and ~~that~~ they are not borrowers. I'm not - if we could find an expert on insurance law, they would be able to tell us about this. It's very doubtful whether they have the power to borrow money. You know, they have very strict regulations, both in New York State, we had an exhibit about that, ^{that} you haven't gotten around to yet, and here and, you know, this would have to show as a liability, a substantial loan.

Mr. Chairman: You feel there may be laws against it, as well as they don't want to show it on their own books as a loan?

Mr. Bradshaw: ^{Yes.} Remember, Equitable were very incensed about the fact that they would show an amount owing to anybody on their books. "My, it would be the first time."

Mr. Chairman: And also you feel that the insurance companies are not short of money, but it seems to me that if they could make a quick dollar this way that they might be interested. ^{Now saying in your opinion they wouldn't.} ~~in your opinion they wouldn't.~~

Mr. Bradshaw: They might be, but that certainly was no part of my discussion with them, either Equitable or ~~the~~ X.

Mr. Chairman: All right, thank you.

Mr. Renwick: Mr. Chairman, if I could just follow up on the other alternative that you had put forward; that is, some kind of a joint loan arrangement which could go through, presumably go through the ~~New York money market~~ and a joint loan by Equitable and the Swiss bank to Canada Square ~~and~~.

July 31st, 1973

2.40 - 2.45 pm

H 1588 - 1

AA

(Mr. Renwick)

the New York money market and . . .

Mr. Bradshaw: Well Mr. Renwick . . .

Mr. Renwick: . . . a joint loan by Equitable and the Swiss bank to Canada Square. Was ^{that} ~~the~~ pursued any further?

Mr. Bradshaw: No, that had been ~~in~~ this morning, I mentioned, Mr. Renwick, that ~~Bill~~ Jeanson of Ames, ~~we~~ we had discussed with him the possibility of collecting together a group of Canadian investors, institutions, that would be prepared to do this type of thing. What we would have to have is the \$20 million coming from Switzerland, which had to be repaid at the end of the 15 years, and then have a group of institutions, and they would have to be reasonably sophisticated ones, who were prepared to put money up beside it, probably by way of bonds, with the security going both to the Swiss banks and also to this group, under the trustee, and then they would take very quick amortization payments ~~actually~~ it would be sort of like double the size and they'd have to take out the Swiss institutions. But this was going to take ~~a~~ a real bit of selling as you can imagine, because it involved a forward commitment of 15 years by these ~~guy~~ guys and they were going to get the break. I mean, they were going to enjoy some advantage on this because the money from Switzerland was 6-1/2 and Canada Square was going to ~~pay~~ pay something between 8 and 6-1/2 for the whole package. So it was attractive, but it meant a long-forward commitment.

Now, I don't know whether Bill Johnson ~~discussed~~ discussed that with any institutions or not. I don't know whether ~~he~~ he got around to, you know, how many people ~~he~~ he found that were interested, or whether everybody said no. But if it was discussed with Equitable, it was without my knowledge.

Mr. Renwick: Thank you, Mr. Chairman.

July 31st, 1973

2.40 - 2.45 pm

H 1588 - 2

AA

(Mr. Shibley)

Mr. Shibley: I believe I am correct in - I ask counsel to correct me if I am wrong or members of the committee to correct me - that yesterday Mr. Moog indicated that he established communications with Ames on or about September 28, 1972, which was the first of the correspondence that was produced to me, Mr. Bradshaw, and then

Mr. Bradshaw: Did he say that the first time he talked

Mr. Shibley: Well

Mr. Bradshaw: . . . to anybody at Ames was in 1972?

Mr. Shibley: Well, I thought the sequence with him was, "We talked to the Swiss bankers, then we talked to Equitable and then we talked to Ames referable to 'X' company."

And that was the sequence that I got out of him . . .

Mr. Bradshaw: Oh, referable to "X" company, yes. But he was talking, we had these meetings with Johnson in 1971.

Mr. Shibley: Yes.

~~Bradshaw~~
Mr. Bradshaw: I think if you re-examine him oh that, Mr. Shibley, you will discover he isn't going to say . . .

Mr. Shibley: I see. Well, I must tell you, Mr. Bradshaw, the first indication I got that Ames were at all involved in this thing as early as 1971, is when you gave your evidence earlier this morning. So that the other thing that concerns me now is, I want you to look at exhibit 191, and first of all, have you ever seen that document?

Mr. Chairman: I might say, Mr. Shibley, that the copy

Mr. Shibley: It's terrible.

July 31st, 1973

2.40 - 2.45 pm

H 1588 - 3

AA

(Mr. Chairman)

Mr. Chairman: . . . that Mr. Bradshaw is working from is not even the original exhibit -- I don't know just where that is. Mr. ~~Moore's~~ ^{Moore's} secretary has it.

Mr. Shibley: It's coming down.

Mr. Chairman: He's working from my copy ^{on} which I tried to pen over some of the things, so that makes it a little more difficult still. I think what I penned is correct, but I don't want to vouch for its correctness.

Mr. Shibley: Now, first of all, from a general observation of the document, have you ever seen it before?

Mr. Bradshaw: I guess, Mr. Shibley, my easiest answer would be to say if I had, it would be on a privileged occasion.

Mr. Shibley: ~~///~~ I am not suggesting by my question that you have seen it. I just want to know whether this document was ever seen ~~by~~ by you.

Mr. Bradshaw: Excuse me. May I consult with my counsel?

Mr. Shibley: Surely.

Mr. Bradshaw: No, I don't know. I don't know whether I have seen it or not.

Mr. Shibley: All right. And just looking at the information contained in it . . .

Mr. Bradshaw: Is there any?

Mr. Shibley: Well, it's like translating from German into English

H 1589 - 1 follows

(Mr. Shibley)

~~information contained in it~~

~~Mr. Shibley: Was there any?~~

Mr. Shibley: Well, it's like translating from German into English or darn near it but I'll help you with it, and I'll tell you in advance what my question is going to be of you, Mr. Bradshaw. I want to know whether this information was ever the subject of discussion in which you participated?

Thomson:

Mr. ~~Bradshaw~~. Again, Mr. Chairman, and Mr. Shibley, discussion that occurred between Mr. Bradshaw and Mr. Moog or Mr. Coles, if so, it's privileged. If you are talking about discussion about this document, or discussion about that information with third parties, Mr. Bradshaw may answer.

Mr. Shibley: Well, Mr. Bradshaw, against the background of what your counsel has advised you, is any of this information familiar to you?

Mr. Bradshaw: No!

Mr. Chairman: That's ~~close to~~ ^{few} good but it's still not good eh?

Mr. Bradshaw: Pardon?

Mr. Shibley: Was your answer no?

Mr. ~~Bradshaw~~ Bradshaw: No.

Mr. Deans: He's saying it doesn't make it easier.

Mr. Shibley: No, I want to know whether any of the information as shown on there, or whether the information as shown on that document is familiar to you?

Mr. Bradshaw: I'm sorry, Mr. Shibley, I was at the back of the room yesterday when you were discussing this with Mr. Moog, but I didn't have a copy of it at that point and I really don't know from this what information is shown on my sheet. Now when you say "if it's familiar to me", I see "financing interim" - at least it looks like "financing interim". I knew that there had to be interim financing.

Mr. Shibley: Mr. Bradshaw, I'm very anxious to know what you knew, if anything, about what's on this document, not just interim financing but the ~~2~~ 4.5. Was that ever known to you?

July 31, 1973
2:45 - 2:50 pm
JLP

Mr. Thomson: From a source other than Mr. Moog, or was it known and discussed with a third party Mr. Bradshaw?

If you don't know anything about it, well then, that's fine too.

Shibley:

Mr. Bradshaw: That's right Mr. Bradshaw.

Mr. Bradshaw: I really know nothing about this.

Mr. Shibley: Or the information contained in it?

Mr. Bradshaw: That is very difficult, Mr. Shibley, the information contained in it. I was advising Mr. Moog from time to time on his level.

Mr. Shibley: I realize that but what I'm really interested in knowing, Mr. Bradshaw, is this, what's revealed by this document. Was information that was being collected by Mr. Moog quite independently of any involvement on your part?

Mr. Bradshaw: Yes.

Mr. Shibley: That is so, isn't it? So that to the extent of his activities as reflected by this document, you were unaware of those activities?

Mr. Bradshaw: I don't know what activities are reflected by this document.

Mr. Shibley: Well whatever they are.

Mr. Bradshaw: Well, I mean, this might, I don't know what this document reflects Mr. Shibley.

Mr. Shibley: I realize that.

Mr. Bradshaw: Some place in here, it might contain, that crazy writing of his, it might have my name "I've ~~discussed~~ ^{that I} discussed this with Bradshaw". I don't know what it says so I can't

Mr. Shibley: I don't want to impute knowledge to you, rather I am trying really to establish from your answers to this point, or just looking for confirmation really of what you have already said, that whatever is the information disclosed here, this is all part of the activity of Mr. Moog without involvement on your part?

Mr. Bradshaw: I'm sorry, I can't assure you of that either, because I don't know what activity this started.

July 31/73
2:50-2:55pm

C.B.

~~Mr. Deane, Mr. Bradshaw~~~~was actually this was~~

Mr. Shibley: ~~the~~ ^{54th} information detailed in this document is not information respecting which you were privy at the time.

Mr. Bradshaw: I don't know. Mr. Shibley, I don't know when he wrote it, I don't know what it says. I had discussions with him from time to time on the financing which ~~was~~ ^{are} privileged. I really, I can't help you anymore on this.

Mr. Shibley: Yes.

Mr. R.G. Hodgson: I wonder ~~—~~,

Mr. Bradshaw: I've seen worse than this too and I don't try and read them. You give them to Mr. Moog and say, "Hey, what did you say?"

Mr. R.G. Hodgson: I wonder if the witness is familiar with the name University Properties in any way ~~which~~ ^{which} was ~~Mr.~~ ^{Mr.} Moog's testimony, I believe, that it was a name that he had thought up for one of the schemes that he mentioned.

Mr. Shibley: Did you ever hear that name?

Mr. Bradshaw: No, I don't believe I've ever heard of University Properties before.

Mr. Shibley: That's a very ~~—~~ thank you, ~~—~~ ^{Mr. Hodgson, that's} very helpful. So that to the extent of the conversation in German on the 7th of August, to the extent the information in this memorandum as far as you ~~—~~ well, let's take the breakdown of these figures. Have you ever seen those breakdown figures before?

Mr. Bradshaw: I don't know what they are. No, I don't think so.

Mr. Shibley: You don't think so.

Mr. Bradshaw: I ~~really~~ can't help you on this document.

July 31/73

2:50-2:55 pm

C B

Mr. W. Hodgson: Mr. Shibley, ~~what~~ would

you relate the ^{second} figure on there, it looks like financing, it could be something of 4.5? Could you get Mr. Bradshaw's interpretation maybe of that?

Mr. Shibley: He has said he is not familiar with these figures, But I'll ^{be glad} to ask him, Mr. Hodgson. Do you know anything about these figures in this document?

Mr. W. Hodgson: This particular figure, *I'm talking about.*

Mr. Shibley: Yes, thank you, Mr. Hodgson.

Mr. Bradshaw: Well, are you asking me? I'm sorry,

Mr. Hodgson, are you asking me whether I have an idea of what the interim financing was going to cost?

Mr. W. Hodgson: No, NOT interim financing. This question I'm putting is that, it says financing; it could be financing interest, it could be ~~something~~ interim financing. But what do you relate to 4.5? Interim financing, interest, or....

Mr. Bradshaw: I don't relate anything to it, I'm sorry.

Mr. W. Hodgson: Maybe I'm not making myself clear. Would you relate the second item, 4.5, would you relate that to interim financing? It says financing something; ~~it~~ would *it* be interest he's talking about, is it an interest rate he's talking about?

Mr. Bradshaw: Oh it's not an interest rate if it is for interim financing. Interim financing is very expensive.

Mr. W. Hodgson: That's ^{interim} financing as far as you ~~are~~ *be* concerned.

Mr. Bradshaw: If it is interim financing, if that is what that says, the 4.5 per cent is not appropriate interest rate. Did I help you?

July 31/73
2:50-2:55 pm
C.B.

Mr. W. Hodgson: Yes, yes, very much.

Mr. Bradshaw: Okay, fine.

Mr. Deans: Mr. Shibley, do you intend to pursue this document further?

Mr. Shibley: Well...

Mr. Deans: Well let me ask, I wonder if the witness would read that part, starting at University Properties. Read through that right down to the part again where it comes to University Properties, it is five lines.

Mr. Shibley: I think if the witness were given the original, which I believe Mr. Finlayson has, it might be of help to him.

Mr. Deans: ~~Because~~ I can, because we went through it yesterday, perhaps help you. It says "University Properties" and then in brackets, "owned by Hydro, hence government agents" agents, I think; it may have said agency, I can't see the Y close brackets, and "borrows at $6\frac{1}{2}$ in form of debentures. CS," I assume to mean Canada Square ^{"Properties"} ~~received~~ received funds as "something" and I don't know what that something is, "at $6\frac{3}{4}$ from University Properties."

Mr. Bradshaw: That's mortgage.

Mr. Deans: That's mortgage, good. Thank you, I couldn't quite understand that. That's mortgage, okay, "at $6\frac{3}{4}$ from University Properties." Was that concept ever the topic of discussion between you, Mr. Moog and any other person, Hydro, or any other lender?

Mr. Bradshaw: NO, Mr. Deans, I said that I wasn't familiar with the name University Properties.

Mr. Deans: No, I'm asking about the concept. Mr. Moog indicated yesterday University Properties was simply a name he thought up for a company to be set up by Hydro

H 1590 - 2 4

July 31/73
2:50-2:55pm

C.B.

(Mr. Deans)

with Hydro
participation.

It goes on further *down, I might say*

Mr. Bradshaw: Oh well yes, I'm sorry, it would relate to what I was talking about before lunch, which was...

Mr. Deans: This is what I'm trying to get at.

Mr. Bradshaw: Yes, I'm sorry, yes it would.

Mr. Deans: Okay. So then in fact you are familiar with that particular concept.

Mr. Bradshaw : The concept, yes.

Mr. Deans: The concept. And was that concept ever pursued with anyone, as set out there, ^t what this ~~particular company called University Properties or something else, which would be owned by Hydro would be set up to borrow at 6 1/2~~

H1591 to follow

July 31, 1973
2.55-3.00 p.m.
M.F.

H - 1591 - 1

(Mr. Deans)

particular company called University Properties or something, *also*, which would be owned by Hydro, would be set up to borrow at six and a half per cent, to loan then at Canada Square at six and three-quarter per cent for the purpose of developing the *building?*

was it
Mr. Bradshaw: And it was *was it* avoiding withholding tax?

Mr. Deans: Well that's - I'm not - that is what you said ~~before~~.

Mr. Bradshaw: Do I know whether that was pursued with anybody from Hydro?

Mr. Deans: Yes.

Mr. Bradshaw: I don't know.

Mr. Deans: Do you know if it was pursued with anyone outside of Canada Square and yourself?

Mr. Bradshaw: No, I have no knowledge of that, Mr. Deans. I am sorry, I would like to qualify that by saying I don't know whether or not it was ever discussed with Mr. Houser.

Mr. Deans: You have no knowledge?

Mr. Bradshaw: Well it may have been, during the negotiations, it may have been discussed with Mr. Houser.

Mr. Deans: I see.

Mr. Genest: May I help on that? I am instructed by Mr. McCallum that it was, the proposition was put up to Hydro, that a subsidiary be formed, and was turned down, *by Hydro*.

Mr. Deans: On the basis of this -----

Mr. Genest: Well on the basis that a corporation would be formed on the general basis ~~as~~ outlined, I think, by Mr. Bradshaw, that was not acceptable to Hydro, but it was put up.

Mr. Bullbrook: Can Mr. Genest and Mr. Bradshaw perhaps help me in this respect? ~~The~~ *I* recognize I can't call it an opinion, is dated September 8th, '72.

Mr. Shibley: Would you just hang in with me for a moment

July 31, 1973
2.55-3.00 p.m.
M.F.

H - 1591 - 2

(Mr. Shibley)

because I would like to ask the witness a few questions that may indicate a certain chronology.

Mr. Bradshaw, do I take it from your answers to this point that following the telephone conversation of August 7th, 1972, it was never any part of any involvement of yours that the financing for the head office building of Hydro involved Swiss funds? Is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: August 7, '72, phone call made that a dead issue so far as your involvement was concerned. Is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: All right. Now I would like to read to the members of this committee, and to you, sir, what Mr. Moog said yesterday, because I think what is happening here is that this witness doesn't know anything about what is in exhibit 191. In Hansard at 1527-3 -----

Mr. Finlayson: What page?

Mr. Shibley: Hansard, 1527-3.

Mr. Chairman: Yesterday afternoon.

Mr. Shibley: Toward the bottom of the page, Mr. Bradshaw, and members of the committee:

"Mr. Shibley: The only thing that helped us so far, Mr. Moog, is that apparently you have had discussion as to some of its content" - and I am referring to exhibit 191 -

"with Mr. Candy as at July 18th.

" Mr. Moog: Well now I think this is a later document". What he means is later than July 18, 1972 -

"Because if I didn't spell Ames with a Y then I would say this could be Ames.

" Mr. Shibley: Whereabouts are you talking about?

" Mr. Moog: That commission and the names behind it, but I have got a Y in there and I should know that Ames isn't spelled with a Y, that is why I am at a bit of a loss.

July 31, 1973
2.55-3.00 p.m.
M.F.

H - 1591 - 3

(Mr. Shibley)

" Mr. Shibley: I see.

" Mr. Moog: And if it is Ames then I would say it would be later.

" Mr. Shibley: Later?

" Mr. Moog: Yes.

" Mr. Shibley: It would be after September 28?

" Mr. Moog: I would think, I would presume so. Again please on dates I am not as good as you are.

" Mr. Shibley: I am trying hard with you, Mr. Moog, to establish the chronology and I think that we are doing quite well."

And then later on there is further reference, but it is quite clear from Mr. Moog's testimony that he pegs a date for the making of these notations as subsequent in point of time to July 19, 1972, and in fact ~~_____~~

Tape H - 1592 follows

July 31st, 1973

3 - 3.05 pm

H 1592 - 1

AA

(Mr. Shibley)

~~the date of the first letter~~ subsequent to September 28, 1972, which was the date of the first letter that he had provided to me with Ames, which is why we pegged that as a date. And I said, "It would be after September 28," that is September 28, 1972. "I *would think,* I would presume so."

No, Mr. Bradshaw, ~~the~~ if the notations which are exhibit 192, were made by Mr. Moog, subsequent to September 28, 1972, it was no part of Mr. Moog's communication with you that he was noting that kind of data as late as that point in time. Is that right?

Mr. Bradshaw: Gee, I followed you right up to there, Mr. Shibley and . . .

Mr. Shibley: Well, ~~when~~ you have already told me so far as your involvement was concerned, when you had that telephone call with Switzerland on August 7, that was the end of Swiss funding, to your knowledge.

Mr. Bradshaw: Yes.

Mr. Shibley: My point, Mr. Bradshaw, is that it appears from Mr. Moog's testimony and from this document, that he was still pursuing ~~Swiss~~ matters pertaining to Swiss funding after September 28, 1972, and without your knowledge.

Mr. Bradshaw: Mr. Shibley, if he is correct on the dating, and from the bit you have read to me, he said that he presumes that it must be that date because of some mistake in spelling or something, then that's right, but it seems to me that what this ~~is~~, well, I don't suppose I can help you a lot on it because I have never seen it before.

Mr. Shibley: I was confident that would likely ~~be~~ I shouldn't say confident ~~is~~ I expected that might be your answer, Mr. Bradshaw, but I want it clearly of record that you, as counsel to Mr. Moog, respecting this transaction were

July 31st, 1973

3 - 3.05 pm

H 1592 - 2

AA

(Mr. Shibley)

of the understanding at August 7, 1972, that Swiss financing was to be no further part of the effort respecting the Hydro head office building. That's so?

Mr. Bradshaw: That's clear.

Mr. Shibley: And if Mr. Moog was, in fact, still dealing, as he indicates, after September 28th, 1972, or still making notes and calculations, subsequent to September 28th, 1972, as outlined in exhibit 191, that would be done by him without any involvement or any knowledge or any advice from you.

Mr. Thomson: Well, just a minute now. We are back at the privilege area. That answer involves directly the question of what it was that Mr. Moog said or didn't say. It is equally privileged as to whether Mr. Moog said it or didn't say it.

Mr. Shibley: Well, the witness . . .

Mr. Finlayson: I don't like to get into this either but I thought that Mr. Moog had a great deal of difficulty in identifying when he had done that document, and that he was really speculating on the basis of its content as to when it was prepared, and I didn't think he ever said that it was prepared after September 28th, 1972.

Mr. Shibley: I am sorry, Mr. Finlayson. I thought that what I read made it clear what he said as to establishing time. I'll read it to you again if you wish.

Mr. Finlayson: Would you please.

Mr. Shibley: At 1527 - 3, I'll start a little earlier, about a third of the way down, "So on July 19th - I am sorry, July 18th, when Candy's reporting to Hydro . . ." and we are talking 1972

Mr. Finlayson: That's right. This 15 . . . ?

July 31st, 1973

3 - 3.05 pm

H 1592 - 3

AA

(Mr. Shibley)

Mr. Shibley: 1527 - 3. "When Candy's . . .?"

Mr. Finlayson: What page is that? Wait now.

Mr. Shibley: 1527 - 3. A third of the way
down the page.

Mr. Finlayson: That's right. Go ahead.

Mr. Shibley: "On July 19th" and that is 1972
we are talking about, "I am sorry, July 18th, when Candy's
reporting to Hydro that the developer would absorb the
government tax, it would be this fee payable in Switzerland
of \$1,100,000 that you and he had been talking about."

"MR. Moog: Yes.

"Mr. Shibley: All right. And then we go on, the
next item, 'Commission' something. What's that.

"Mr. Moog: Yes. I am trying to decide what
that one is. 'Commission' - it is obviously another commission
payment to somebody.

"Mr. Shibley: Yes. To whom?

"Mr. Moog: What date was this document, Mr.
Shibley?

"Mr. Shibley: Well, I would like you to tell
me what date the ~~document~~ document is.

"Mr. Moog: We are all going to be in trouble -
we are going to be in trouble - I wouldn't know.

"Mr. Shibley: The only thing that helped us
so far, Mr. Moog, ~~is~~ is that apparently you have ~~had discussion~~
~~as to some of its content with Mr. Candy as of July 18th.~~

~~Mr. Moog: Well, now, thank~~

H 1593 - 1 follows

July 31, 1973
3.05 - 3.10 p.m.
M.R.

(Mr. Shibley)

~~He~~ had discussion as to some of its content with Mr. Candy as of July 18.

"Mr. Moog: Well now, I think this is a later document, because if I didn't spell "Ames" with a "Y" then I would say this name could be "Ames".

"Mr. Shibley: Whereabouts are you talking about?

"Mr. Moog: That commission and the name behind it. But I have got a "Y" in there and I should know that Ames isn't spelled with a "Y". This is why I am at a bit of a loss.

"Mr. Shibley: I see.

"Mr. Moog: And if it is Ames, then I would say it would be later.

Mr. Shibley: Later?

"Mr. Moog: Yes.

"Mr. Shibley: It would be after September 28th?

"Mr. Moog: I would think - I would presume so. Again, please, on dates, I am not as good as you are.

"Mr. Shibley: I am trying hard with you, Mr. Moog, to establish the chronology and I think that we are doing quite well."

Mr. Deans: Do you have the original of that document?

Mr. Shibley: I do not. Mr. Finlayson has it.

Mr. Deans: Is it possible for us to see the original of the document?

Mr. Finlayson: Yes, I - Mr. Cowper-Smith is - just went out a little while ago...

Mr. Shibley: I might go on and on Page ...

Mr. Finlayson: I'll get it, there's no question about it. I don't know that I've got it right here or I've got to go back to Canada Square to get it.

July 31, 1973
3.05 - 3.10 p.m.
M.R.

Mr. Shibley: I'll go on then and on Page 1529-3

I must say I'm just checking this as I go along, Mr. Shibley, just a minute now - Page 1529, here it is, at the bottom.

"Mr. Shibley: All right, ~~xxx~~ but let's go back ..."

Mr. Finlayson: 1529-3?

Mr. Shibley: Dash 2, I'm sorry. At the bottom of the page.

"Mr. Shibley: All right. But let's go back to the \$300,000 you were going to pay to Ames for arranging this thing. Ames was the financial house which was arranging for another institution to put up the ultimate financing for Hydro and that is the company with which you still have a commitment. And you incorporate -----

"Mr. Moog: I don't think we dealt with that company at that time. I am not sure, but I don't think we did. I just don't know what time this document, or this little scribbled thing was done.

"Mr. Shibley: I know. All right, but Mr. Moog, we will pinpoint times in another way and in another time. At the moment, then, even if you were not dealing with that institution, I take it you talked to Equitable about a put-through of Swiss funds in June, July, August and September?

"Mr. Moog: Well now, I haven't said that.

"Mr. Shibley: Well in that period of time.

"Mr. Moog: I said that I talked to them, in that period I talked to them, right. Not in March necessarily.

"Mr. Shibley: I could tell you the first correspondence which you've provided to me, and I'm not sure that you have anything more precise than this, of your communications with Ames is September 28, 1972.

"Mr. Moog: Have I got that here? Oh, yes. The letter to Ames, right.

"Mr. Shibley: That's right.

July 31, 1973
3.05 - 3.10 p.m.
M.R.

(Mr. Shibley)

And you carried forward with Ames thereafter it appears into November and December of that year. Is that correct?

"Mr. Moog: I carried through in November and December, that's right, with Ames.

"Mr. Shibley: Yes.

"Mr. Moog: That is correct.

"Mr. Shibley: Now, just getting back to this memorandum: Regardless of who the principal was, I gather at this time, which would be some time after September 23, 1972, you were talking to Ames about a put-through deal?

"Mr. Moog: I didn't say that, Mr. Shibley. As I can reconstruct it I am talking about getting \$25 million in this case, presumably, from Switzerland.

"Mr. Shibley: Then, why would you be paying Ames a commission ...

"Mr. Moog: I've still got to get the other \$25 million. If I was to get \$25 million from Switzerland then I would still have to get the other \$25 million elsewhere. I think that's what I'm trying to reconstruct with you right now. Because on the bottom, if you look at the total, I've got a \$50 million total on the bottom left. This is what makes me analyse it the way I do right now.

"Mr. Shibley: So, what you are telling us now then is that you anticipated paying Ames a commission of \$300,000 for raising \$25 million ..." and so on.

The whole of the content of what I have read is all to the effect that the content of this document was created after September 26, 1972.

Mr. Finlayson: No, no. With great - the record speaks for itself, I don't propose to argue with it but I don't think, with great respect, you can say that Mr. Moog agreed with you that the particular piece of scribbling was prepared after September 28. I don't see how you can read that into what he said.

July 31, 1973
3.05 - 3.10 p.m.
M.R.

(Mr. Finlayson)

Now, in any event, I take it that he will be called ~~back~~ back anyhow, you can clear it up with him but I don't think you really should put it to this witness, with respect, that Mr. Moog ...

Mr. Shibley: Well, I wanted to know from Mr. Bradshaw because ...

Mr. Finlayson: Whether he knew anything about the document, yes.

Mr. Shibley: ~~That's right. I wanted to call out his~~
~~out his~~

H-1594 to follow

July 31, 1973
3:10 - 3:15 pm
JLP

(Mr. Finlayson)

~~But I don't think you really should put it to this witness with respect that Mr. Hoof~~

~~Mr. Shibley: Well, I wanted to know from Mr. Bradshaw, because~~

~~Mr. Finlayson: Whether he knew anything about the document~~

Mr. Shibley: That's right. I wanted to cancel out his knowledge of this document.

Mr. Bradshaw: It has been cancelled.

Mr. Shibley: It is cancelled.

~~Mr. Bradshaw: It's cancelled.~~

Mr. Bullbrook: Will you permit me to clarify one thing in my mind?

Mr. Shibley: Surely.

Mr. Bullbrook: In relation to the document, Mr. Bradshaw, Exhibit 191, and in particular with respect to Mr. Dean's questions, where the document apparently says "University ~~properties~~ ~~taxed~~ ~~market~~ (owned by Hydro, hence Government agent)." I really thought in the chronology of what we were doing this morning that September 8 was an operative date and that the establishment of this type of corporation related to your dealings with Equitable Life and the withholding tax problem. And, what is causing me problems on the chronology is Exhibit 65, that we have —

Mr. Shibley: You'd better hand it —

Mr. Bullbrook: Do you mind if I do this just for a moment to clarify in my own mind?

Mr. Shibley: I think the witness should have the Exhibit.

Mr. Bullbrook: Yes, surely.

Mr. Finlayson: In response to Mr. Dean's suggestion, I have got a better copy. I don't have the original; I can bring the original tomorrow.

Mr. Deans: I'd like to look at the word after "commission" to see what it says.

Mr. Clerk,

Mr. Finlayson: If you'd like to give that to Mr. Deans, I think you'll find it's a better copy than I have.

~~Mr. Shibley: Where is the original if that?~~

Mr. Thomson: Do you have another copy of the Exhibit that Mr. Bradshaw has ..

Mr. Shibley: Can we have the original made the exhibit so that it's available? It's very awkward.

July 31, 1973
3:10 - 3:15 pm
JLP

Mr. Finlayson: I'm quite content to have it made, I just don't have it with me. *I'll have to pick it up at Canada Square.*

Mr. Shibley: All right, fine.

Mr. Bradshaw: Yes, Mr. Bullbrook.

Mr. Bullbrook: Subject to the direction or advice of your counsel, I want to read to you ^{not} subject to my reading but to your response. This is dated March 30, 1972, and as you've probably read, it says:

"I discussed the four items in connection with the proposal from Canada Square, outlined in the memorandum from Mr. F.J. Mink, dated March 27, with Mr. Moog today, with the following results:"

And I read that preamble so that you will be knowledgeable of the fact that Mr. Moog has disclosed to Mr. Candy information on the second page that reads, paragraph 4:

"In order to escape the 25 per cent withholding tax imposed by the Federal government on foreign capital from the U.S., it is proposed to establish a Crown corporation with Hydro members as directors; but all arrangements for procurement of funds would be carried out by the developer. This arrangement may or may not be necessary in obtaining funds from Switzerland, depending on whether or not a withholding tax applies, and the rate of withholding tax."

My concern in the chronology is that without again offending the privilege that you allegedly assert, or that you assert and that we allegedly accept, I want to —

Mr. Chairman: I'm not sure that is right, *but let's go on.*

Mr. Bullbrook: What's confusing me is that I'm oriented towards Equitable Life withholding tax and advice in September of 1972. And here we know that Mr. Moog is conveying to Hydro, in March of 1972, the very information that you advised him on in September of 1972, and without — I'm just interested if you can help me in that respect.

July 31, 1973
3:10 - 3:15 pm
JLP

Mr. Bradshaw: Mr. Bullbrook, I certainly can.

Mr. Bullbrook: ^{Probably there's} A simple explanation.

Mr. Bradshaw: Yes. Is the proposal ^{to} ~~use~~ Hydro one of
the _____

Mr. Bullbrook: Yes, it's Exhibit 61.

Mr. Bradshaw: If you refer to Exhibit 61, it refers to
the financing and it also refers _____

(Tape H-1595 follows)

July 31/73

3:15 - 3:20 pm

C.B.

Mr. Bullbrook: The point I make there Mr. Chairman and Mr. Shibley will help me, because I think he more than anyone else is very interested in the chronology. But if there had been advice of course from counsel to Mr. Moog in connection with the establishment of a separate corporation dominated by Hydro and since this was referable to Swiss financing it might well have taken place previous to this September 8 date.

Mr. Shibley: I'm sorry Mr. Bullbrook, the date of the document which is yet to be exhibited is September 8, 1972, as to the problem of withholding tax being overcome by using a separate corporation.

Mr. Bradshaw: Yes but I didn't make it up at that point Mr. Shibley. It is something we had been discussing since...

Mr. Thomson: I think we have discussed enough of this I'm sorry. I'm sorry it is very difficult, I appreciate for Mr. Bradshaw in order to answer responsively as I know he is trying to do and in order to retain his obligation to the client who up to this time has declined to waive any privilege and I must advise Mr. Bradshaw that he cannot answer questions with respect to that.

Mr. Bullbrook: Well I just want to; I don't take issue at this time with what Mr. Thomson is saying. I just hope the record would recognize Mr. Thomson that I have attempted to frame my question in the light so that your analysis of privilege wouldn't be offended.

Mr. Thomson: I'm not criticizing you Mr. Bullbrook.

Mr. Bullbrook: I know you are not.

I understand

Mr. Thomson: ~~Yaxxaxad~~ the position entirely, but from time to time as we all appreciate we have indeed a problem discussions in general areas tend to get back into the area of privilege and as soon as I find it getting there it is my duty to bring the matter forward and I've done that.

July 31/73

3:15 - 3:20 pm
C.B.

Mr. Shibley: Mr. McCallum is the memorandum of September 8, 1972, part of your documentation?

Mr. McCallum: I haven't seen it.

Mr. Genest: Can I see what it looks like. There is one that is.

~~As has been mentioned in the past, the document was~~
~~examined.~~

~~_____~~

Mr. Finlayson: We'll bring it tomorrow. It is up at Canada Square.

Mr. Genest: The only document in Mr. McCallum's file is the one that you've already made an exhibit ~~without~~ without any assistance from him, although he spent his whole lunch hour looking for it and has found it in his file.

Mr. Shibley: It is the...

Mr. Genest: NO not ~~the~~ this one, the one you are referring is not in the file. But the one, I think the last exhibit, or the second last exhibit was in his file, ^{heard} high credit lease.

Mr. McCallum: Talking about the description, we have had a very meagre description of it.

Mr Shibley: The description is really contained in the examination as to content that I went over with Mr. Bradshaw.

Mr. Genest: ~~I think we have a sufficient description~~
~~don't we? We know the date and we know the heading and~~

H1596 to follow

July 31, 1973
3:20-3:25 p.m.
M.F.

H - 1596 - 1

(Mr. Shibley)

~~content that I kept over with Mr. Bradshaw.~~

Mr. Genest: I think we have a sufficient description, don't we, we know the date and we know the heading, and we can find no such document in Mr. McCallum's files.

Mr. Shibley: Well, Mr. Bradshaw, as much for your purposes and benefit ~~and~~ as that of the committee, I am concerned to clear up something with you.

It is, as Mr. Bullbrook indicates, in exhibit 65, which was dated March 30, 1972, part of that memorandum, that there would be a Crown corporation with Hydro members as directors, etc., to escape the 25 per cent withholding tax. You notice_d that?

I might tell you that as part of the submission of Canada Square on page 5, there is also reference to the creation of a corporation - and I had better give it to you precisely ---

Mr. Bradshaw: I can read it, Mr. Shibley.

Mr. Shibley: Exhibit 61, I believe it is, on page 5, in their submission on January 24th, it says:

"These arrangements have not been finaliz_ed and will require your full co-operation in assisting us to set up the necessary corporate structure to be able to complete them". So that it does appear that at the time of the submission in January of 1971, at the time of Candy's memo of March 30, 72, that the subject of withholding tax, which was still in mind as at September 8, 1972, had already been the subject of consideration on your part and incorporated in information provided to Hydro. Isn't that so?

Mr. Bradshaw: Yes.

Mr. Shibley: Yes. And that concern as to the creation of a Crown corporation to overcome withholding tax, was not something new as at September 8th, 72, it had been in your mind and part of the position presented to Hydro almost from day one? Certainly from the day of the submission of January 24.

July 31, 1973
3.20-3.25 p.m.
H.S.

H - 1596 - 2

Mr. Bradshaw: It had been in my mind at least from that date.

Mr. Shibley: Yes. Then why was it the subject of a memorandum so much later in point of time?

Mr. Bradshaw: I don't know whether I can help you on that, Mr. Shibley. Maybe I wanted to try and get it straight with Mr. ~~Mr. Bradshaw~~ Moog. I mean he talked about in this thing - oh Mr. Deans has gone - according to Mr. Deans that says a government agency. Well maybe at this point in time I decided to write it out and make it quite clear exactly what provisions we were talking about.

Mr. Shibley: Well I am wondering also whether ~~he~~ it wasn't because he in turn wanted it communicated to someone else?

Mr. Thomson: If you are asking Mr. Bradshaw to tell you by indirection what Mr. Moog did ~~he~~ or didn't ask Mr. Bradshaw to do, I am afraid - I know this is difficult because I am sure that Mr. Bradshaw would like to answer some of these questions, but I am here to advise him he can't answer that one.

Mr. Shibley: Well unless Mr. Bradshaw was told that this document was required to be produced to others for their information in the same way as he had given advice to Hydro and to Mr. Moog, in which event it ~~was~~ was a published document.

Mr. Thomson: If it was a published document, Mr. Bradshaw, of course, can't ~~talk~~ talk about the contents of the document, but Mr. Bradshaw can't tell this committee, without Mr. Moog's consent, what were the reasons, if any, that Mr. Moog gave him to prepare the document, whether those reasons related to his own interests in learning the ~~withholding tax situation, as~~ ~~Mr. Shibley, whether Mr. Moog wanted to give them to someone else.~~ ~~I am afraid that people are not allowed to~~

Tape H - 1597 follows

July 31, 1973
3.25 - 3.30 p.m.
M.R.

(Mr. Thomson)

~~withholding~~ tax situation or, Mr. Shibley, whether Mr. Moog wanted to give them to someone else. I'm afraid that's not a matter that Mr. Bradshaw can testify to, ~~is he~~ ~~was~~ to or not.

If it's published ^{if} or ~~this~~ happened at a meeting ~~at which~~ ~~Mr. Bradshaw was present or anyone else~~ ~~was~~ I'll back off.

Mr. Shibley: Well, can you find that ~~was~~ out from Mr. Moog and save us all a lot of grief, because if it was published then we don't have to have a confrontation?

Mr. Thomson: Well, Mr. Finlayson is the only one who can find out anything like that from Mr. Moog.

Mr. Finlayson: Look, do you want ~~it~~ ^{it} does ^{it} thing add up to ^{was} income tax?

Mr. Shibley: Yes.

Mr. Finlayson: Am I in a position to give this to Mr. Genest on a strict understanding that I waive no privilege or anything like that, strictly for the purpose of allowing him to go through his file to see if it was ever there, because if it's - I'll hand it over on that basis, that I don't want somebody to say that just because I've handed to Mr. Shibley that I've waived a privilege.

Mr. Chairman: Well, ~~gentlemen~~ gentlemen, it may be a reasonable time for me to speak at this point. I'm prepared to rule that this document is admissible. I haven't had my reply from the Attorney General. If you recall, I was to get some information and help last evening. I put my call in to the Attorney General. I haven't had a reply although he was trying to get me at noon time and we didn't connect. But I asked him to have someone look over the transcript of yesterday's evidence so that we would have the full story of the points that ~~he~~ ^{we} had to cover.

Now, I don't know whether he's got that information for me yet or not, but I imagine it would have taken somebody

July 31, 1973
3:25 - 3:30 p.m.
M.R.

(Mr. Chairman)

this morning to do it. So, what I'm saying, ~~that~~ I want you to know, is not from his office at all but from my own thoughts on it. I did try to consult with Mr. Lewis, the clerk, Roderick Lewis, the clerk of the House, whom I find is away. Now, I don't want to get a discussion on whether or not the House or a branch of it is recognizing solicitor and client privilege. In my own mind, I think it would be ⁱincumbent upon us to do that recognizing; something that the court^{ts} have found works well over the years and I don't think we should set it aside lightly, ^aalthough, as I say, I'm not making any ruling on that at this present time.

But from my own look at the law last night I have decided that there was quite a difference between the obligation to produce documents on their examination as it were, and the obligation to disclose their existence. Now, I think that there is an obligation to disclose their existence but that's where it stops. I think, also, once they^{are} are produced that we can no longer then say, "all right, it is a privileged document." And on the basis ~~of~~ that that document has been actually produced and handed over to Mr. Shibley, I differentiate that from the disclosure of the document, and in the fact that it has ~~been~~ in fact, been produced, I would rule that this is an admissible document.

Mr. Shibley: Mr. Chairman, I think you can take further comfort out of the fact that I do not believe that there is any content of this document that hasn't already been the subject of evidence given by this witness. I think what my friend has really been attempting to establish is a principle rather than worrying himself about the document itself.

And for that reason I am going to ask that it be made an exhibit.

Mr. Chairman: Do you have any comment, Mr. Newman?

July 31, 1973
3.25 - 3.30 p.m.
M.R.

Mr. W. Newman: No, I'll pass for the ~~moment~~

moment.

Mr. Chairman: Exhibit 195.

Mr. W. Newman: Mr. Chairman, now that Hydro has a copy of this, could you find out if they do have it in their file?

Mr. Henderson: Mr. Chairman, is this one of Mr. Bradshaw's documents or one of Canada Square's?

Mr. Chairman: I understand it's the document which was prepared by Mr. Bradshaw. That's my understanding of it.

H-1598 to follow

July 31st, 1973

3.30 - 3.35 pm

H 1598 - 1

AA

~~(Mr. Henderson)~~

~~Mr. Henderson: Mr. Chairman, is this one of~~

~~Mr. Bradshaw's documents or one of Canada Square's?~~

~~Mr. Chairman: I understand it's the document~~

~~that was prepared by Mr. Bradshaw. That's my understanding~~
~~of it.~~

Mr. Shibley: It was in the files ^{of} ~~that~~ Canada

Square produced to me.

Mr. Chairman: The files of Canada Square and

handed over to Mr. Shibley earlier in the game.

Mr. Henderson: And I understand that you

have made a ruling.

Mr. Chairman: I made a ruling, yes that it ~~was~~

Mr. Henderson: Is this a permanent ruling or

is it on this particular document?

Mr. Chairman: Well, it's on this particular

document, but I ~~was~~

Mr. Henderson: Because I am not happy with

that ruling, sir.

Mr. Chairman: Well, I am sorry. I based it

on the - as I say, if this was privileged in any way, the

privilege was lost when the document was handed over to

Mr. Shibley. Now, I was differentiating ^{the} ~~the~~ problem yester-

day was to differentiate between their obligation to disclose

what documents they had and their obligation to produce. Now,

they disclosed it, but they went beyond that. They also handed

it over and on that basis, I ruled it ~~admissible~~ inadmissible.

Mr. Henderson: Well, I'm leaving that ruling but

I am leaving my notice that I am not satisfied with your

ruling, sir. I may take it up at a later date.

Mr. Shibley: Mr. Bradshaw, I have actually

July 31st, 1973

3.30 - 3.35 pm

H 1598 - 2

AA

(Mr. Shibley)

covered the content of this document with you in earlier examination, so I don't intend to go over it again. The only thing I want from you now is to note that in paragraph two, it does talk about ~~it~~ - this is exhibit 195, I am sorry - "to facilitate the borrowing of the funds required to finance the construction of Ontario Hydro's new administration building from a U.S. or other foreign lender," - and I am interested in that wording in relation to the date of the document, September 8, 1972.

~~Was~~ Was it still in contemplation that funds other than from the U.S. might be the source of funds for the Hydro head office building?

Mr. Thomson: I take it you are talking about Mr. Bradshaw's ~~contemplation~~ contemplation, not anything that Mr. Moog may have told him.

Mr. Shibley: Yes.

Mr. Thomson: I point out that the fact that this document is admitted into evidence by the ruling of the Chair does not make any other conversations with Mr. Moog admissible.

Mr. Shibley: All right. I am starting to hate lawyers myself.

Mr. Chairman: You can understand the feeling of some of the committee members then.

Mr. Thomson: I think the feeling is becoming mutual, *all the way around.*

Mr. Shibley: There must be something I can teach my students to ^{overcome} ~~work on~~ all of this, but let's go on.

Mr. Bradshaw, let's ~~go on~~.

Mr. Bradshaw: At the time that I prepared this memorandum, I believe what I was doing was setting out

July 31st, 1973

3.30 - 3.35 pm

H 1598 - 3

AA

(Mr. Bradshaw)

in, I hoped in intelligible form, for Moog and Cole, the results of our discussions and conversations, over, I ~~would~~ would say, probably getting close to a year at that point.

Mr. Shibley: Yes, well _____.

Mr. Bradshaw: But, so far as I was aware, based on the telephone conversation in August, that this was - we were talking now about the place - this was - the matter that was material at that point was the Equitable financing.

Mr. Shibley: Well, so that as at September, ~~you~~ were talking Equitable financing. Is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: And it was in September _____.

Mr. Bradshaw: Mr. Shibley, I might be able to help you a little bit by saying that following the preparation of this memo, I discussed the withholding tax problem with representatives of Equitable on the telephone.

Mr. Shibley: Yes.

Mr. Bradshaw: The people in their tax department. And, I was exploring this problem with them.

Mr. Shibley: In the course of your conversations with Equitable, did they ever reference the conversations they had had with Mr. Moog referable to a ~~put-through~~ put-through deal?

H 1599 - 1 follows

(Mr. Shibley)

~~reference the conversations they have had with Mr. Moore, refer-~~
~~able to a put-through deal?~~

Mr. Bradshaw: I don't believe so Mr. Shibley. I
can't recall any time ^{at} ~~the~~ which we discussed the wrap-around or
put-through, or joint financing with Switzerland, or anybody else.

Mr. Shibley: In September, to put it into context,
September of 1972, is a point of time subsequent to Hydro's
approval, that it would enter into a contract with Canada Square,
and prior to October 18 which is the date of the documentation,
not necessarily its date of execution. So, this was the
negotiating period of time - is that right?

Mr. Bradshaw: Yes.

Mr. Shibley: And it was a period of time you were
dealing with Mr. McCallum and Mr. Houser - is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: And do I take it that within that period
of time it was still part of the deliberations of yourself, Mr.
Houser, that
McCallum and Mr. ~~Houser, that~~ a Crown corporation might be
formed along the lines and for the purposes indicated by this
memorandum of September 8, 1972?

Mr. Bradshaw: I believe that's the case Mr. Shibley.

Mr. Shibley: So that Hydro__

Mr. Bradshaw: Mr. McCallum has said that he recalls
these conversations.

Mr. Shibley: Yes. So that after the deal so to speak
was approved on July 19, and as part of the negotiations with
Hydro, yourself for Canada Square, and Mr. McCallum and Mr.
Houser for Hydro, were giving consideration to a Crown corporation,
the whole of the shares of which might be held by Hydro or
90 per cent of the shares of which would be owned by the Province
of Ontario. Is that correct?

Mr. Bradshaw: Yes, the door hadn't been closed on that.

Mr. Shibley: It had not been closed?

NO,
Mr. Bradshaw: /I think it was probably closed very speedily
as Mr. McCallum said.

Mr. Shibley: And how was it closed?

Mr. Bradshaw: Well, I was just told that that wouldn't ~~BUY~~.

Mr. Shibley: Was this proposition ever ~~put~~ put to
Treasury Board?

Mr. Bradshaw: I don't really know.

Mr. Shibley: I must tell you that within the documents
of Canada Square, if you will bear with me for a moment,

Mr. ~~Chairman~~ Chairman: Would you like to take a recess?

Mr. Shibley: That would be a good idea, Mr. Chairman,
wasn't really ready; because I ~~wasn't really ready~~ I'm not organized as I would
ordinarily be.

Mr. Chairman: We will recess at this point until about
five to four.

(Tape H-1600 follows)

July 31, 1973
4.00-4.05 p.m.
M.F.

H - 1600 - 1

Mr. Chairman: Ladies and gentlemen, I call the meeting back to order, and I request Mr. Shibley to proceed.

Mr. Shibley: Mr. Chairman, the next document is the document I may be proving through Mr. Moog so that at the moment I only want it presented to the witness and to counsel for the witness, and to other counsel.

First of all, Mr. Bradshaw, can you tell me is any part of this document in your own handwriting?

Mr. Bradshaw: Is there a better copy of it, Mr. Shibley?

Mr. Shibley: If there is it is in the possession of Canada Square in the original file. It is not an exhibit yet .

Mr. Finlayson: Well, Mr. Chairman, I am not going to say anything more than I said before about the document that came into Mr. Shibley's possession in this way. You have made one ruling. I take it that by not repeating my argument I will in ~~have~~ no way have been taken have departed from the position I took originally?

Mr. Chairman: No, of course, Mr. Finlayson. Unless there is some basis of distinguishing those documents -----

Mr. Finlayson: I take it, Mr. Shibley, this is in the same plight as that document we argued about yesterday that you say that you got from Mr. Laidlaw.

Mr. Thomson: Although if it turns out that it is in Mr. Bradshaw's handwriting I may have something to say.

Mr. Shibley: I don't know that there is any plight about it, it was one of the documents in the files that we received on May 24 and gave a receipt for.

Mr. Finlayson: Yes, well it is in the same position.

Mr. Deans: No it isn't.

Mr. Shibley: Well I don't see that there is any position. As far as I am concerned I received the files, period.

Mr. ~~Deans~~ Bullbrook: The same as anybody else.

Mr. Deans: Let's not get into an argument about it.

July 31, 1973
4.00-4.05 p.m.
M.F.

H - 1600 - 2

Mr. Shibley: Yes, let's get on with it. I would just like to know from the witness whether he can identify this document in any way.

Now you will notice, however, that as part of the document, and it is a document out of the files of Canada Square, is the date October 1 and then on the right side Treasury Board. Do you know anything about the involvement of a Treasury Board with respect to the fundi_ng of the Hydro head office building?

Mr. Bradshaw: No, I don't, Mr. Shibley.

Mr. Shibley: I am particularly interested in asking you the question, Mr. Bradshaw, because your memorandum having to do with the formation of a Crown corporation is dated SEptem_ber 8th, 1972, and I am sorry to have to ask you about a document ~~which~~ that isn't authored by you, but while you are in the witness box I will ask you and then later I will ask Mr. Moog.

Do I take it that it was never the subject of any involvement on your part ~~receptance~~

Tape H - 1601 follows

H 1601 - /

July 31/73

4:05 - 4:10 pm

C.B.

(Mr. Shibley)

~~I'll ask you and then I'll ask Mr. Moog, but I don't want to ask him if that's all right.~~
that Treasury Board be asked to consider the Hydro head office financing or the formation of a crown corporation along the lines of your memorandum of September 8, 1972?

Mr. Bradshaw: No, I have no recollection of ... Let's put it this way, I didn't do anything about the ~~Treasury Board~~ Treasury Board or an application to the Treasury Board; I know nothing about an application to the Treasury Board.

Mr. Shibley: Because I don't want this again to be one of these open-ended things before the day is out, I'm wondering, Mr. Finlayson, if your client could give some explanation as to that. Because it is a matter of concern to members of this committee ~~as to what is intended by this entry~~ as to what is intended by this entry in this memorandum.

Mr. Finlayson: Mr. Chairman, I'm advised that the top part of the memo ending off with the words "can we make preliminary application to the Department of Labour" is in the handwriting ~~of Mr. Cooper~~ ^{of Mr. Cooper}, who is an architect at Canada Square; that's what Mr. Moog believes. The rest of the document is in the handwriting of Mr. Moog and he says the words "Treasury Board" there were put on by him, and he really doesn't have any explanation for it right now. He just says in effect that that was something he was thinking about and that is why he wrote it down.

Mr. Shibley: I had hoped he might cancel out the topic. That is as ~~much~~ much as he can say at this time. I'd ask you to reflect on it and inquire within your own organization, Mr. Moog, because it is a matter of concern, ^{the} ~~the~~ evidence to date being that this matter was never the subject of consideration by cabinet or any member of cabinet, ~~and~~ I would ask you to consider also whether it was Provincial

July 31/73

4:05 - 4:10 pm
C.B.

(Mr. Shibley)

or Federal Treasury Board that you had in mind when you made that note, and also what was your ~~purpose~~ ^{purpose} in making a note and what was the significance of October 1, with respect to the note?

Mr. Finlayson: Thank you, Mr. Shibley, ~~we~~ ^{we} will reflect on it.

Mr. Shibley: Thank you. I apologize to members of the committee that I can't better clear up that topic immediately. But Mr. Moog appears to be the only one who can inform himself and needs the time.

All right, ~~Now~~ ^{Now}, I want to go on with you, Mr. Bradshaw, and deal with the chronology. You've told us earlier that you had two meetings, I believe, with Equitable and you gave us the dates of those.

Mr. Bradshaw: No, one meeting with Equitable.

Mr. Shibley: One meeting with Equitable.

Mr. Bradshaw: Yes, and then I had a telephone call with John Nugent, their lawyer, the lawyer that I've been talking to.

Mr. Shibley: Can you go down the chronology of attendances? First, with Equitable whether by correspondence or phone, and then with Ames and or X company?

Mr. Bradshaw: August 10, 1972, Mr. Moog and I met with officers of Equitable Life in New York. ~~There~~

H 1602 to follow

July 31, 1973
4.10 - 4.15 p.m.
M.R.

(Mr. Bradshaw)

~~officers of Equitable Life Insurance Company~~ Just checking both books and records here, Mr. Shibley.

August 14th, I phoned John Nugent of Equitable Life who is the - one of their members of their legal department and discussed the high-credit lease.

August 16th, Mr. Nugent wrote to me the letter which you gave to me and then took away again, that enclosed the Insurance Department Ruling of the State of New York.

August 18th, I acknowledged that letter.

September 8th, I wrote the much discussed memo.

September 6th, I discussed - by telephone, I discussed the high-credit lease with Mr. Holloway of Equitable Life.

Mr. Chairman: September 6th?

Mr. Bradshaw: September 6th, yes. So you just add the chronology according to my record we attended on Mr. Houser on September 7th, I think that was the first meeting with him.

So that was before the memo ~~ran thru~~ ^{ran thru} we were meeting regularly with Mr. Houser and Mr. McCallum after that.

It looks as if September 28th was the - I again talked to Mr. John Nugent of Equitable. One of the things I asked him at that time was whether he could give me the name of somebody in their tax department that I could discuss the this withholding tax with and the next day Mr. Rohn of Equitable's Tax Department phoned me and we discussed the withholding tax problems.

I
And ^{on} the same day [^] again talked to Mr. Nugent of Equitable regarding the high-credit lease.

Then on October 2, which was three days later, I met with Mr. Johnson of Ames, with Moog and Coles, who mentioned company X.

~~Mr. Shibley: Now, are those the whole facts?~~

H-1603 to follow

(Mr. Bradshaw)

~~Company "X"~~

Mr. Shibley: Are those the whole of the attendance as referable ~~referable~~ to Equitable?

Mr. Bradshaw: Yes, according to my docket.

Mr. Shibley: Do I take it correctly then that Equitable was a company respecting which there would be ~~any~~ withholding tax problem, but company X was not confronted with that problem, it had offsetting deductions - is that correct?

Mr. Bradshaw: That's correct.

Mr. Shibley: And so, it was a case where Equitable was, in effect, saying "we can't handle the deal" and somebody saying "somebody else can". Is that right?

Mr. Bradshaw: Yes.

Mr. Shibley: Now, who swung you over to X company?

Mr. Bradshaw: So far as I am aware from my own knowledge, apart from listening to Mr. Moog here, and from perhaps a privileged conversation with him, the first I heard of X company was through Johnson of Ames. Probably Mr. Moog has testified that somebody at Equitable suggested company X as well, as being a company which was large enough to do the thing and didn't have the problem.

Mr. Shibley: When did Johnson of Ames mention X company to you which was the first occasion?

Mr. Bradshaw: That was on October 2. ~~That~~ That was the first time that I --

Mr. Shibley: All right. You are talking 1972?

Mr. Bradshaw: Oh, indeed, yes. All those dates were 1972.

Mr. Shibley: With respect to the attendances with Ames and/or company X, will you establish the whole chronology of those attendances?

Mr. Bradshaw: I heard about it on October 2; October 4 Mr. Coles and I attended at company X to find out exactly what their requirements were and to discuss the type of security that we thought we could develop with Hydro.

Mr. Shibley: Yes.

Mr. Bradshaw: And we discovered that they didn't call it a "high-out-~~of-the-water~~ lease", they called it a "hell-or-high-water lease". It was the same kind of animal. And you see the final product that in ~~the same~~ lease that we, the form is included in the papers.

Mr. Shibley: Yes. Was anything else discussed at that time?


Mr. Bradshaw: ^{Do you/} ~~Yes~~ want me to tell you about that meeting?

Mr. Shibley: Yes.

Mr. Bradshaw: Bill Johnson from the Toronto office of Ames was there.

Mr. Shibley: Please don't mention who was there from X company.

Mr. Bradshaw: No. There was the head of Ames' New York office was there; Bill Coles was there, and then there was a group from company X. And we discussed the form of the transaction, it was a little bit complicated; ^{AS/} you can see from these. And we told them a little more detail of what we had to offer. I think that it's fair to say that really Ames' function here had been to arrange the meeting for us to go in and talk to these gentlemen to get in at the right level. This was when we were going down talking to the senior men, the ~~more~~ ones responsible for making the recommendation the directors of the company, whether they should do the financing.

We discussed the terms of the financing, and, in terms that we wanted a 30-year amortized pay, and Mr. Johnson had already indicated what rate that they were prepared to loan at. I am sorry, ~~I~~ I should say he had indicated where he thought we might end up. And so we negotiated a rate ~~and~~ 

(Tape H-1604 follows)

H - 1604 - 1

(Mr. Bradshaw)

and we talked about the security, we talked about what form the ground lease would take.

Mr. Shibley: Just before you go on, what was the rate that was indicated as the rate at which you might end up?

Mr. Bradshaw: The reason I am pausing, Mr. Shibley, is that there is a possibility that I made some of these notes before the meeting started, notes of things I wanted to cover, and then use the same notes to cover the meeting, but I think that the 8 per cent was, I think 8 per cent was the figure.

Mr. Shibley: Are you telling us then that the 8 per cent was the rate of interest that was pegged by the representatives of X company from the outset, or are you telling us - I would just like to understand that.

Mr. Bradshaw: I am not absolutely certain on that now, Mr. Shibley, I am sorry. I think perhaps it was. I think perhaps the negotiation on rates had been carried on.

Mr. Shibley: Could you please clarify that? You are not sure whether the 8 per cent was a negotiated rate or was the rate that they came out and said this is the rate at which we are prepared to loan you the money?

Mr. Bradshaw: Yes, provided the security is appropriate. I think that is - when we got down there to meet with them I think that they said this is the rate.

Mr. Shibley: Eight per cent.

Mr. Renwick: Mr. Chairman, could I just step in a minute? You had said, I thought you had said, Mr. Bradshaw, that Ames had spotted a rate that they thought was either within the range or was the target rate -----

Mr. Bradshaw: I am sorry, Mr. Renwick, I have changed my position on that. I thought that was the case but in looking at my notes of the earlier meeting with Mr. Johnson before we went down, the rate-I had set out the rate there, so if there

H - 1604 - 2

(Mr. Bradshaw)

were negotiations on rate it took place before I was involved in any way in connection with this matter.

Mr. Renwick: Thank you.

Mr. Shibley: That is what I wondered about.

Mr. Bradshaw: I am sorry. I misled you there.

Mr. Shibley: If there was negotiation as to the rate, it took place before you got involved?

Mr. Bradshaw: That is right.

Mr. Shibley: The rate was already established at the time you attended this meeting?

Mr. Bradshaw: Yes.

Mr. Shibley: The meeting was really convened to discuss security, is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: And have you any information as to what negotiations took place as to the rate which led to it being 8 per cent?

Mr. Bradshaw: No.

Mr. Shibley: That was outside the sphere of any involvement on your part?

Mr. Bradshaw: Yes.

Mr. Shibley: That is right. And just independently of any information elicited from Mr. Moog, have you any information as to how and when the rate was negotiated?

Mr. Bradshaw: No.

Mr. Shibley: You don't have any independently of Mr. Moog? Any information you might have would be from him?

Mr. Bradshaw: Yes.

Mr. Shibley: Is this another case where you have information in respect of which you feel there is a privilege?

Mr. Bradshaw: I can't answer that one, Mr. Shibley. I don't think I answered the last one. It is a double-barrelled question and as soon as I answer the question I have abandoned

July 31, 1973
4.20-4.25 p.m.
M F.

H - 1604 - 3

(Mr. Bradshaw)

the position of privilege. I am sorry.


Mr. Shibley: All right, let's go on. I was only interested really in knowing that you had nothing to do with negotiating the rate, it was pegged by the time you went to the meeting of October 4th, is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: And that was the first - I am sorry, the first time that X company was any part of your existence referable to the Hydro deal was on October 2nd, 72, and it was mentioned by ^JJohnson of Ames and then the follow-through on October 4 when you went to the meeting? Is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: All right. Now then will you carry on with the chronology of your attendances whether in writing or verbally with respect to Ames and/or X company.

Mr. Bradshaw: I don't believe, Mr. Shibley, I had anything more to do with X company myself. Our firm, one of my partners -----


Tape H - 1605 follows

July 31/73

4:25 - 4:30 pm

C.B.

(Mr. Bradshaw)

~~must be a firm, one of my partners~~ has been involved, and has been involved with "X" company's Toronto solicitors.

Mr. Shibley: Referable to this deal?

Mr. Bradshaw: Yes.

Mr. Shibley: Who is that partner?

Mr. Bradshaw: Donald Steadman; he asked me not to give you his name.

Mr. Shibley: I don't blame him, but I had it already. So that, did he take over where you left off, is that what you are telling us?

Mr. Bradshaw: Yes, he had been assisting me with the matter from the time that we started to prepare the documentation.

Mr. Shibley: Yes.

Mr. Bradshaw: And indeed he was the one that concluded it. He was the one that was working with Mr. Houser and Mr. McCallum at the time that the documents were executed, and he was also discussing aspects of the transaction with the ~~and the~~ Toronto solicitors for company "X".

Mr. Shibley: Yes, just while I think of it, one of the committee members was interested to know whether any part of the arrangement included the placing of Hydro pension moneys with "X" company as part of this transaction?

Mr. Bradshaw: I have no knowledge of that.

Mr. Shibley: Right. Now then, going back to the chronology, was it ever part of the discussion with Ames and Co., or "X" company that Swiss money would be provided to "X" company which in turn would put it through and lend it to Canada Square for this project.

Mr. Bradshaw: NO, it was never part of the discussion.

Mr. Shibley: Never, at any time?

Mr. Bradshaw: ~~Never at any time.~~ Never at any time.

Mr. Shibley: So that as far as your knowledge

July 31/73

4:25 - 5:30 pm

C.B.

(Mr. Shibley)

and information is concerned, Mr. Bradshaw, to the extent of your knowledge and information, the funding of this project by "X" company does not include the use of Swiss funds or the provision of Swiss funds, directly or indirectly?

Mr. Bradshaw: That's right, Mr. Shibley.

Mr. W. Newman: I think I have got it clear.

Mr. Shibley: Okay.

Mr. Bradshaw: As I pointed out, the contact with this company was through Mr. Coles and myself, when we sat down with this company and we discussed the matter in detail over a substantial period. ~~and~~ I am quite confident that I'd be aware if any part of the transaction involved borrowing in Switzerland and ~~that~~ in my view, the documentation which we've been working on since, we couldn't possibly be involved in preparing the documentation without being aware if there was such a thing. It would be a very complicated transaction. It could ^{not} be done, in my view, Mr. Shibley, under the table or at the side where it wasn't tied into it, ^b because we are talking about \$20 ~~hundred~~ million here.

~~Mr. Shibley: We could be talking \$40.~~

~~Mr. Bradshaw: Well you could be talking \$40 million.~~

But:

H1605 to follow

July 31st 1973

4.30 - 4.35 pm

H 1606 - 1

AA

(MR. Bradshaw)

Mr. Shibley: We could be talking forty.

Mr. Bradshaw: Well, you could be talking forty.

And there would be no reason for a company - I almost said it - company "X" to want to borrow and put it through just - well, we discussed that this morning. But it couldn't be done. It would have to be done in a very casual, unsophisticated manner if it was being done at all, because it is not any part of our instructions or the documentations. We have negotiated or are in the process of negotiating a bond purchase agreement and a ~~trust~~^{deed} and . . .

Mr. Shibley: In light of your last statement, Mr. Bradshaw, I feel obliged to ask you this. Would it be possible for the arrangements respecting Swiss money to be provided to "X" company to be attended to elsewhere - I don't think it's any secret, ^{it's} that "X" company is a U.S. company, is it?

Mr. Bullbrook: It is not disclosed.

Mr. Chairman: I am not sure whether the origin of the company is known or not. I think maybe it's not.

Mr. Shibley: All right.

Mr. Winlayser: ~~It was an American company.~~ ^{I said it was an} American company.

Mr. Shibley: American company. Yes. all right.

Would it be possible, Mr. Bradshaw, because I want to make sure we clear the air in this respect, would it be a possibility for the funding of "X" company with Swiss money to be documented and handled by U.S. attorneys in the United States and only that part of the transaction wherein the put-through - I am sorry - that same institution is, in turn, lending the money to Canada Square, attended to by yourselves, in Canada?

Mr. Bradshaw: Yes, Mr. Shibley, it would be possible, but not practical.

Mr. Shibley: Well, explain that.

July 31st, 1973

4.30 - 4.35 pm

H 1606 - 2

AA

(Mr. Bradshaw)

Mr. Bradshaw: Let me tell you why it wouldn't be practical. If the ^{cc}agreements are executed in the form in which we have been dealing, negotiating on, then whether or not company "X" was able to complete its borrowing in Switzerland, that was covered by separate agreements, they would be obliged to advance the moneys to Canada Square when the building is completed and the lease is executed. There is no condition in this bond purchase agreement which would permit company "X" to say, "Oh, no, we can't advance the moneys yet." And so they would be in a position where either they had \$20 million or \$40 million which they weren't positive they were going to get, but would be under ~~any~~ you know, there would have to be conditions involved with that. It wouldn't be just a straight loan. This is being done on the security of the Hydro building.

So, they would be in a position where they might have to find, overnight ~~not~~ overnight but over a very short period of time, ~~either~~ either \$20 million or \$40 million.

Now money management - these companies - they are not that big. They can't do that kind of . . .

Mr. Shibley: Well, Mr. Bradshaw, think on this for a moment. And I am looking for you to cancel out these things so that we can put this thing to rest or it remains alive, one way or the other. If "X" company in the United States received a firm commitment from ~~the~~ Swiss bank or a Swiss syndicate to provide \$20 million or \$40 million, a firm commitment . . .

Mr. Bradshaw: Against its own credit?

Mr. Shibley: Yes.

Mr. Bradshaw: Oh.

Mr. Shibley: All right? And then, in turn, made its ~~and its~~ commitment to Canada Square in Canada. That

July 31st, 1973

4.30 - 4.35 pm

H 1606 - 3

AA

(Mr. Shibley)

is still an open question.

Mr. Bradshaw: Possible but not practical, yes.

Mr. Shibley: Well, why isn't it practical?

Mr. Bradshaw: Well it is bizarre, Mr. Shibley.

It really is. You know, a company ^{66 77}~~XXXX~~ it's too bad we can't tell you who it is, ^bbut ~~and~~ gee, it would be great if somebody could telephone them and ask them because they'll laugh at it. They really will, Mr. Shibley. ~~XXXXXXXXXXXX~~

H 1607 - 1 follows

July 31, 1973
4.35 - 4.40 p.m.
M R

(Mr. Bradshaw)

~~... it would be great if somebody could telephone them~~
~~and ask them because they will laugh at it, they really~~
~~will, Mr. Shibley.~~ It's - to think that - you know, a
super large insurance company is going to worry about
borrowing money in Switzerland when they've got these
premiums pouring in that they've got to get placed, it's - well
as I say, I think it's bizarre. But I don't think I can help
you an awful lot more with it, because anything is possible.
It just takes a little longer but I think the best evidence
you can get on that is to, without disclosing to the public
who the company is, to talk to somebody down there.

These men are senior business men and

Mr. Shibley: Well, I'd like to show you the
document which is the - what amounts to some form of agreement
between Ames and Company and Canada Square, which is Exhibit

Mr. Bradshaw: You have shown it, I've got it here.

Mr. Shibley: You have it?

Mr. Bradshaw: 192.

Mr. Shibley: 192. And I put it to you, Mr. Bradshaw,
that this - I don't want to adopt your term "bizarre" but this
document is to say the least, unusual, in terms of its terminology
respecting a commission agreement, is it not?

Mr. Bradshaw: I haven't seen one exactly like
it but I have seen others very similar.

Mr. Shibley: Well, now, Mr. Moog says that this
is the only document respecting which any arrangement for a
fee is payable to Ames and Company for the services it rendered
in connection with this transaction. You heard him say that?

Mr. Bradshaw: Yes.

Mr. Shibley: And he also said it's very much
less than would be normal if they had to do with the whole
of the arrangements respecting the funding of this kind of
money. He said it might have rather been as much as \$1 million.

July 31, 1973
4.35 - 4.40 p.m.
M.R.

(Mr. Shibley)

Now, what I would like from you is some explanation as to why Ames would accept an agreement for services, in terms of talking about financial advisory services as you may reasonably require for the four calendar years, December 31, 1975, and the fee not to exceed \$100,000. Doesn't it strike you as an unusual kind of commission agreement?

Mr. Bradshaw: Mr. Shibley, I didn't have anything to do with the preparation of this agreement.

Mr. Shibley: I believe you. I believe everything you ~~are~~ telling me.

Mr. Bradshaw: In fact, I won't be running into any difficulty with Mr. Moog's privilege if I tell you that at the meeting between the representative of Ames ^{— now} it wasn't Mr. Johnson, it was Mr. Bellamy of Ames ^{and} and Mr. Moog, at which the commission arrangement or the payment arrangement was discussed, I was there initially and I excused myself and left the meeting because Ames is sometimes a client of our firm; Mr. Moog is our client; ^{and} I didn't want to see them having a battle over the commission ^{and} ~~and~~ commission arrangements.

So I can't help you with this - what they ended up with.

Mr. Shibley: So, what you are telling the committee is that you were - although you had been at the meeting, you left the meeting while the discussions that led to this kind of an arrangement were formulated. Is that what you are telling us?

Mr. Bradshaw: Yes. And the amount.

Mr. Shibley: All right. Now then, even though you were not there, having regard for your experience and your knowledge of this particular transaction, can you help this committee as to an understanding of why an agreement for _____

July 31, 1973
4.40 - 4.45 p.m.
M.R.

(Mr. Shibley)

~~... Committee as to an understanding of why that~~

I hate to use the term - but as little as \$100,000 and payable as it says, for financial advisory services and on the basis that the fee will not exceed \$100,000, have you any information or any assistance to afford this committee as to why that type of commission agreement would be the end product?

Mr. Bradshaw: No. Any information I gave you would be a breach of Mr. Moog's privilege - of ~~my~~ ^{my} ~~other~~ ^{other} ~~the~~ ^{the} privilege so far as Mr. Moog and Canada Square is concerned.

The arrangement for the payment of the commission.

Mr. Shibley: And you see, in addition, Mr. Bradshaw, Mr. Moog in his dealings with Equitable apparently was being confronted with a rate of eight and a half to nine per cent, and yet here we have another institution in the United States providing funds for eight per cent.

Mr. Bradshaw: Can I tell you something about interest rates on these large amounts of money, as I understand, ^{it?}
~~Mr. Shibley:~~

Mr. Shibley: Yes, surely.

Mr. Bradshaw: ^{And} This isn't fact, this is just my

view. This is a very large loan by anybody's standards, by Equitable's, or company X's - this is a large amount of money to put up, and a lot of institutions, ~~not~~ - most institutions in the States and all in Canada, [^] they couldn't manage it themselves. They would have to form a group. There would have to be a lead lender and maybe three or four others. There only are a few that can do it. No doubt - now, it depends then, when you are getting down into particular situations you've got to - the lender you are dealing with has his own or its own particular requirements, its own particular problems in terms of their money management at any moment.

As I understand it, when we were talking to Equitable, Equitable had some money available right away that they would have liked to get out and they were prepared to do better on rate

July 31, 1973
4.40 - 4.45 p.m.
M.R.

(Mr. Bradshaw)

if we could borrow the money like the day after tomorrow. They wanted ^{the} security though, so that there's - you know, this created problems and that's where we got into the situation that I mentioned this morning in which they might lend it to us and we'd lend it back to them; they didn't want that because they didn't want to show that they had borrowed any money from anybody.

Now, company X, in its management of its premium income and what it was doing with it, happened to have a large amount that was unallocated at this particular time and the bond purchase agreement provides that the funds have to be advanced by a certain date. So when you find this - maybe to adopt Mr. Moog's phraseology "a pocket of money", it's a special circumstance. It's not the same as looking in the Globe and Mail and seeing ~~the~~ bond yields at any particular moment.

What you are doing here - and Mr. Moog knows this well, I guess I've learned a lot of it from him, is these people are anxious to put their money out on the kind of security they are being offered here.

So that you do have room to bargain. It's not just a question of ~~asking~~ going in and saying "~~ask~~ what's your rate today?" When you've got the amount of money we are talking about here at a particular time, you just - you know, you can hit it right with this one, maybe another one has no money available to enter, ^{or} if they have money available, then they are not as worried about getting ^{it} placed.

So that's what happens. Now, this particular company - there were a couple of fingers pointing at it; there was Mr. Johnson at Ames and then there was Mr. - Equitable - Mr. Holloway at Equitable.

I don't know whether that explains it at all, but that's really what happens when you come to deal with this ~~cell~~

July 31, 1973
4:45 - 4:50 pm
JLP

(Mr. Bradshaw)

Equitable. And I don't know whether that explains it at all but what that's really ~~was~~ ~~was~~ happens when you come to deal with this type and size of loan.

Mr. Shibley: Mr. Bradshaw, is it not true that when you are dealing with amounts of this dimension, you talk in terms of eighths of a percentage point as being meaningful?

Mr. Bradshaw: Yes, I agree with that.

Mr. Shibley: ~~And a~~ ^{And a} disparity of as much as a half to one per cent is a —

Mr. Bradshaw: Yes, it's a hard bargain.

Mr. Shibley: It's a very sizeable differential.

Mr. Bradshaw: That's right.

Mr. Shibley: And, are you saying that ^{notwithstanding} ~~notwithstanding~~ the going rate so to speak at that time was 8-1/2 - 9 per cent, that X company was nevertheless prepared to be driven to bargain at 8?

Mr. Bradshaw: Was it 8-1/2 - 9 per cent?

Mr. Shibley: Yes.

Mr. Bradshaw: I have no knowledge of that, Mr. Shibley.

Mr. Shibley: Well, that's Mr. Moog's memorandum as to what he was getting out of Equitable at the time. They were stipulating for 8-1/2 - 9 per cent.

Mr. Bradshaw: I wonder whether that indeed is correct?

Mr. Shibley: Well, if it surprises you, I'll show you the memorandum, which is Exhibit 189, Mr. Bradshaw. It's the first part of —

Mr. Finlayson: 189?

Mr. Shibley: 189, June 21 document. You'll see the middle paragraph. It says, "he figures that Don Waugh wants 8 1/2 to 9 per cent on the Hydro deal."

Mr. Finlayson: That's what Don Waugh wanted. But that wasn't necessarily what Mr. Moog was going to end up with Don Waugh agreeing with.

Mr. Shibley: Well I asked Mr. Moog a few further questions on it but you see, Mr. Bradshaw, Mr. Moog was telling us that the reason he started to think about a put-through deal was that he

July 31, 1973
4:55 - 5:50 pm
JLP

(Mr. Shibley)

WANTED wanted to get a rate lower than 8-1/2 to 9 per cent. And that's, of course, what led us into this whole area of questioning, whether the fact he got 8 per cent from X company, the fact that he only paid \$100,000 on the terms of the Ames*commission agreement. Did Ames really only arrange for another company to put through Swiss funds, which would entitle Ames to far less than it would be otherwise entitled to?

What I am trying to do is to examine into those matters with you, and I've explained it to you, so if you can cancel it out, let's hear it.

Mr. Bradshaw: Okay. I hope I can for you, Mr. Shibley. That memorandum, 189, is June 21.

Mr. Shibley: Yes.

Mr. Bradshaw: Okay. We were talking in August - I am sorry, it was after. When we were talking with Equitable? — company X

Mr. Shibley: October 4.

Mr. Bradshaw: ~~Now~~ We've come a long way; you know markets don't hold still.

Mr. Shibley: I remind you, however, that Mr. Moog and you had a call in August, '72.

Mr. Bradshaw: When we were talking at Equitable.

Mr. Shibley: Yes, but what I'm reminding you about is that in August ~~he~~ still was very much in his mind to pursue Swiss money.

Mr. Bradshaw: Well, it may have been in his mind, but —

Mr. Shibley: Well I just remind you if you want to make the chronology complete, So now we —

Mr. Bradshaw: But, ~~the last time~~ ^{the last time} we met in New York with Equitable,

Mr. Shibley: Yes.

Mr. Bradshaw: My notes indicate that one of the guys there said that the rate would be 8-1/4 to 8-3/8, and another of the guys there said, "8 per cent rock bottom".

Mr. Shibley: I just want to get those from you please. When was that again?

Mr. Shibley: 8-1/4 to 8-3/8 did you say?

So, I don't think the 8 per cent was out of the way at that point, Mr. Shibley. You can't really go from June 21, and also you see that was the starting point.

Don Waugh is Art Keegan's - you know, Art Keegan reports to Don Waugh. Don Waugh would start off. Art ~~would~~ would say, *you know,* ^{before} ~~en~~ "this is where we are going to start." That's ~~before~~ ^{before} the negotiations would start.

So, where you ended up, it depends upon the relative strengths and the funds available.

~~Was as for the amount of the fee.~~

(Tape h-1610 follows)

July 31st, 1973

4.50 - 4.55 pm

H 1610 - 1

AA

(Mr. Bradshaw)

~~fund, over 2.14~~. Now as for the amount of the fee, I can only again assume that Mr. Moog had a strenuous negotiation with Mr. Bellamy and pointed out that really ~~Ames~~ Ames had done a little more than provide an introduction to somebody that facilitated it and that was all they were entitled to do. They aren't involved now in the negotiations of the transaction at all.

You know, often a securities dealer, ~~an~~ an investment banker, ^{on} ~~an~~ an underwriter ^{on} ~~on~~ an agency matter will be involved in settling the documentation, ^{et cetera.} Our firm acts for Ames in situations such as that. They aren't involved at all now. They have earned their fee on this transaction.

Mr. Shibley: All right.

Mr. Bullbrook: Would you permit one question?

I just want to clarify something in my mind in connection with your comments about the ability to acquire, as Mr. Moog characterized it, a pocket of money. Am I correct in assuming, from evidence that has been given before, that this pocket of money is not for delivery for many years?

Mr. Bradshaw: Yes.

Mr. Bullbrook: Well, this is ~~there~~ there is something that I have missed. As I understand, in your explanation to me, ~~the~~ the good fortune of developers, ~~or the~~ or the talents, or ingenuity, is for them to be able to have security, like this building, with a covenant, like the government of Ontario, to sell to company "X", who happens to have, at that time, a pocket of money, and they can make a marriage there advantageous to both parties and that leads to a negotiation perhaps of an interest rate that is attractive. Help me about the fact that the pocket of money being there is not for delivery until 1975.

July 31st, 1973

4.50 - 4.55 pm

H 1610 - 2

AA

(Mr. Bradshaw)

Mr. Bradshaw: No, no. I am sorry, Mr. Bullbrook. That "pocket of money" isn't a very good way to talk about it, because what they are really doing is they are scheduling the use of their funds and they are scheduling this thing five and ten years in advance.

Mr. Bullbrook: Right.

Mr. Bradshaw: They know what their premium income is going to be. And sometimes they get too far ahead and, you know, they are really unhappy because they have got themselves committed three years in advance and now they are looking at increasing interest rates and some of them get very badly stung that way. Now, here, what happens if interest rates sky rocket here is that company "X" may be very unhappy that ~~it~~ committed three years in advance.

Could I add one other thing too?

Mr. Bullbrook: Yes.

Mr. Bradshaw: There has been a lot of talk about, you know, the super security here on this and, you know, anybody could go out and raise this money because of the super security. I could just point out that ~~that~~ you raised, Mr. Bullbrook, suggests that, you know, one of the points that hasn't been raised ~~is~~ is that when company "X" commits ~~it~~ ~~this~~ ~~to~~ ~~the~~ ~~fact~~ ~~that~~ ~~this~~ ~~money~~ ~~can~~ ~~be~~ ~~provided~~ ~~we~~ ~~have~~ ~~the~~ ~~security~~ ~~that~~ ~~you~~ ~~have~~ ~~agreed~~ ~~to~~ ~~give~~ ~~us,~~ which is super security, although Hydro when it borrows, ~~it~~ ~~always~~ ~~with~~ ~~the~~ ~~guarantee~~ ~~of~~ ~~the~~ ~~Province~~ ~~of~~ ~~Ontario~~ ~~so~~ ~~that~~ ~~Hydro's~~ ~~credit~~ ~~alone~~ ~~isn't~~ ~~really~~ ~~tested~~ ~~in~~ ~~the~~ ~~market.~~ It is the Province of Ontario's credit rather than Hydro's.

~ But the other thing that company "X" is saying, and this is where it is important to have somebody to vouch for you ~~in~~ this is where ~~Canada~~ Canada Square had to have proved itself and, in addition, to have the sponsorship of Ames

July 31st, 1973

4.50 - 4.55 pm

H 1610 - 3

AA

(Mr. Bradshaw)

in this thing ^{is} that ~~they~~ when they say that they will draw that money down in three years, that they'll put the Hydro building up and ~~they~~ Hydro will have accepted ^{it} and have rented it and these people then say, "OK, on that basis, we'll commit." But what they are doing then is saying, "Yes, we understand. We accept the fact that you have the ability to do what you ~~say~~ say you are going to do. You are going to get the building up and ~~we~~ we'll be able to lend our money on it."

^{you}
And see, when they're scheduling the use of their money, they have to have confidence in Canada Square, ~~whoever~~ whoever it is that's buying, that they are going to be able to do what they promised to do, because otherwise, they are going to be stuck with \$45 million in 1975, trying to invest it at ~~that~~ that point in a real hurry-scurry and, you know, at that point, it makes their money management very difficult.

So, it is not just a simple matter of saying, "Hey, we have got a red-hot covenant here. Lend us the money."

You have also got to ~~the fact that the money is not available~~
~~and the fact that the money is not available~~

H 1611 - 1 follows

July 31/73

4:55-~~4~~ 5 pm

C.B.

(Mr. Bradshaw)

~~we~~ be able to say to them, "we have the ability and the well I guess the ability to perform our obligations under this agreement and to build a building that Hydro will indeed lease so we can give you the ~~substantive~~ security".

Mr. Deans: Just something that has been in my mind for days and perhaps you can answer it for me. Am I correct in assuming from what you've said and others have said before you that to commit three years in advance is not an uncommon practice? That three years isn't considered to be a long time in advance in other words?

Mr. Bradshaw: In this kind of financial....

Mr. Deans: In development projects.

Mr. Bradshaw: No I don't think that is. It is at the long end of the scale Mr Deans. Because there are not a lot of buildings that take this long to build. I mean it's a big building. But for this type of completion financing, the commitment has to be made in advance. There are other kinds of borrowings that people make.

Mr Deans: Have you from your own personal knowledge been involved in deals where they did not take down the money for two or three years?

Mr. Bradshaw: Yes.

Mr. Deans: You have?

Mr. Bradshaw: Yes.

Mr. Deans: Then in your business it is not uncommon to have that kind of arrangement?

Mr. Bradshaw: In this type of arrangement that's right.

Mr. Shibley: There is commitment fee payable also.

Mr. Bradshaw: Yes, indeed, there is a commitment fee.

Mr. Deans: I just wanted to be sure, it is just something I wondered about.

July 31/73

4:55 - 5 pm

C.B.

Mr. Bradshaw: Then the commitment can be used to provide interim financing from other institution.

Mr. Deans: Yes.

Mr. Bradshaw: Do you understand that?

Mr. Deans: Yes, I understand that fully. It leaves me with another question which I won't ask.

Mr. Renwick: Mr. Chairman.

Mr. Chairman: Mr. Renwick.

Mr. Renwick: I could I just ask Mr. Bradshaw a question because he raised the matter ~~xxx~~ he indicated that it was essential for ~~Canada~~ Canada Square to have somebody such as Ames to vouch for them or to provide something more than the mere introduction and then you went on to indicate that X company would have to be satisfied with respect to Canada Square's ability to perform, that is put the building up. On what sort of submission would X company make that determination?

Mr. Bradshaw: I think that was done on the basis of (a) they were introduced by Ames, and (b) the fact that the - I'm sure they talked to Equitable to find out what kind of - who they were dealing with and were told by Equitable "yes indeed this man has been able to perform and we've loaned a substantial amount of money to him within the time frame that he said he would take it down".

Mr. Renwick: I suppose the question that is in my mind is that Hydro would not be unknown to X company.

Mr. Bradshaw: Oh of course not, they put up your bonds.

Mr. Renwick: Yes, and presumably, Hydro's close relationship with the government of the province of Ontario would be known to X company because of the Hydro bonds.

Mr. Bradshaw: That goes to the security Mr. Renwick.

July 31/73

4:55-5 pm

C.B.

~~Mr. Renwick: Um.~~

~~Mr. Bradshaw: That goes to the security.~~

Mr Renwick: I'm not talking about the security for this transaction. I'm talking X's assessment of Canada Squares' ability to perform. That is to build the building. Now it is with great respect to Ames the introduction of Canada Square that would be of some assistance to them, and the reference to X company by Equitable would be of assistance, but with respect to the actual ~~performance~~ performance of Canada Square's obligation to build the building its....

Mr. Bradshaw: Well I suppose it would be on the basis that if Hydro had confidence in Canda Square, that maybe X company could probably help.

Mr. Renwick: That is I think the point I was getting to, because I think Mr. Moog's evidence and certainly Mr. Tatham's evidence from Y & R was that this was a very large building and that Canada Square hadn't embarked on that kind of building operation before, even though the buildings which it had built were visible to be seen. But I think that's what I wanted to know that X company in a sense would be relying on Hydro's selection.

Mr Bradshaw: Sure

Mr. Renwick: Of Canda Square as ~~being~~ being evidence that Ontario Hydro isn't going to be entering into firm negotiations for somebody to build their head office who they don't have reasonable confidence in to build it.

Mr. Bradshaw: That could be another factor.

Mr. Renwick: Thank you Mr. Chairman.

~~Mr. Shibley: Mr. Bradshaw I would like to you to complete the chronology. You've told us that.....~~

~~Mr. Renwick: Mr. Chairman I just pursue one...~~

H - 1612 - 1

Mr. Shibley: Mr. Bradshaw, I would like you to complete the chronology. You have told us that -----

Mr. Renwick: Mr. Chairman, could I just pursue one other question? I think Mr. Bradshaw's explanation has been very full and complete and then he indicated a certain restlessness if the interest rates went crazy over a period of time.

Mr. Bradshaw: No, I wasn't suggesting any restlessness. I was just saying that you would be unhappy, that companies have been caught where they have committed their funds too far in advance and then they wish they had the funds available to put out at two per cent higher.

Mr. Renwick: But for practical purposes in this case, X company, the funds which it would have to put out, wouldn't be taking a view of the market particularly. In other words it is a very good deal, it is a very good investment for X company.

Mr. Bradshaw: Oh I think it is a good investment and in their judgment they decided that it is what - I think that is what I am trying to say, that you do have the bargaining position but at the same time if they saw rates - well rates have climbed - if they saw rates continuing to climb up, we are still looking three years in advance, but -----

Mr. Renwick: But they have got funds coming in over an indefinite period in the future and they have got to put money out and they are not likely to second guess their commitment on some technical ground.

Mr. Bradshaw: No, not on some technical ground.

Mr. Renwick: And isn't it fair to say that for practical purposes, apart from the settlement of documentation, that the basic document is the letter of commitment and once you have the letter of commitment, while there are problems in the final settlement and negotiation of documents because of the security involved and because of the limited area of bargaining which goes

July 31, 1973
5.00-5.05 p.m.
M.F.

H - 1612 - 2

(Mr. Renwick)

on about them, the fact of the matter is that a company of the reputation of X company is not going to withdraw on a technicality from that kind of commitment.

Mr. Bradshaw: Not on a technicality, Mr. Renwick.

Mr. Renwick: It would have to be - perhaps that was substantial, downgrading my question - but it would have to be a ~~substantial~~ matter before they withdrew, affecting the ability of Hydro to pay the money, and affecting the time at which Hydro was obligated to take possession of the building and start to pay the rent?

Mr. Bradshaw: I would like to say two things in answer to that. The first is that the so-called letter of commitment isn't written to Canada Square at all. I believe - is it an exhibit, Mr. Shibley?

Mr. Shibley: Not yet, but it is going to be.

Mr. Bradshaw: No. Is it going to be an exhibit?

Mr. Finlayson: No, but perhaps you could show it to the witness.

Mr. Bradshaw: No, well I can't make that point. The other thing is -----

Mr. Renwick: Well is it - I don't imagine that is a particularly confidential matter. If it is a letter of commitment who would it be to.

Mr. Bradshaw: The only trouble is it refers to the name of X company.

Mr. Renwick: Oh, I don't want to put it in as an exhibit. I am talking about who the addressee of -----

Mr. Shib ley: We have prepared it block~~ing~~ out the names of the company.

Mr. Renwick: Of the addressee as well?

Mr. Bradshaw: Well, maybe that one -----

Mr. Renwick: This is why I am interested because

M. F.

H - 1612 - 3

(Mr. Renwick)

obviously the person to whom the commitment is made, it seems to me that is somewhat significant to us.

Mr. Shibley: I think these letters should go in and I would like to show the edited versions of them to counsel first.

Mr. Renwick: My only question - again I don't know whether it is other than material in the course of the discussion that Mr. Bradshaw and I have been having -----

Mr. Bradshaw: Yes, this is along the line of our discussion.

Mr. Renwick: Yes.

Mr. Bradshaw: Now maybe I can make the other point.

Mr. Renwick: I would say that up until this point in time I had assumed that we were talking about a letter of commitment from X company to Canada Square, at least I shouldn't say we, I should say I was under that impression.

Mr. Bullbrook: Well you weren't alone in that impression.

Mr. Shibley: I ask you first to look at the letter of November 28th, 1972; I think it is safe to mention that it is on the letterhead of Mrs. and Company --

Tape H - 1613 follows

July 31, 1973
5.05 - 5.10 p.m.
M.R.

(Mr. Shibley)

...1972 which I think is ~~the letterhead of Ames and Company and not of X company.~~

the letterhead of Ames and Company and not of X company.

Is there anything extraordinary about the content of that commitment letter?

Mr. Finlayson: I'd just as soon it not be marked. I don't know - the point the witness was making was that the writer of the letter was not X company, it was Ames, writing on behalf of ~~Ames~~

Mr. Shibley: I think *it* ~~was~~

Mr. Bradshaw: This ~~one~~

Mr. Renwick: All I was interested in was the addressee of the letter, *not* ~~was~~

Mr. Shibley: Mr. Chairman, I say that the committee needs these documents.

Mr. Bradshaw: Mr. William Johnson of A.E. Ames and Company.

Mr. Shibley: Yes.

Mr. Bradshaw: But it's a letter to him from an officer of X company just saying that the finance committee of the board has approved *the loan - I mean the contract.*

Mr. Shibley: Well, Mr. Bradshaw, to be complete, there really are two letters establishing the commitment. The first is a letter of November 8, 1972 from Ames and Company to Canada Square outlining the terms upon which the financing has been offered and then a further letter of December 21, which is a copy of a letter from the X company to Ames and Company, advising that the finance committee of X company approved on December 12 of the financing. I think it's important for the committee to have these documents before them.

For the moment, it's my intention that they should be exhibited, ~~not~~ edited as to the name of X company. Perhaps distribution of the exhibited document could be made to committee members only, so that you can satisfy yourselves as to whether it's to be further disseminated, but I really don't

July 31, 1973
5.05 - 5.10 p.m.
M.R.

(Mr. Shibley)

see anything extraordinary about - well, Mr. Bradshaw, is there anything extraordinary in these two letters, excluding the names of the X company?

Mr. Bradshaw: I have no objection if it's distributed to members of the committee.

Mr. Shibley: Well,

Mr. Bradshaw: And, as I say, if you want to mark it an exhibit

Mr. Shibley: I'd like it marked as an exhibit and then if the - because I'd like the assistance of the members of the committee as to whether it should be published to the public, so to speak. I don't see anything problematical about it. I'd like the advice right now of Mr. Bradshaw as to whether he sees anything problematical about the ~~information~~ information.

Mr. Chairman: I have some hesitation in allowing it in as ^{an} exhibit if we can't make it public.

Mr. Shibley: Well, Mr. Bradshaw, you've indicated what the rate is. We know it's for ^a 30-year amortized term, ^{that} We know it's ~~for~~ to be - how it's to be secured and that it's a completion loan. It's all a matter of record. I don't see anything in the document really that isn't already a matter of evidence and similarly ~~was~~ with the second document.

Now, unless you can

Mr. Bradshaw: I have no trouble with it.

Mr. Shibley: All right.

Mr. Finlayson: I haven't any trouble with it.

Mr. Shibley: Well, then I ask that

Mr. Finlayson: I prefer it not be but I've no strong views on it.

Mr. Shibley: Then I ask that the letter of November 8 be made the next exhibit, Mr. Chairman.

Mr. Chairman: All right. But before we distribute it - yes, Mr. Allan?

July 31, 1973
5.05 - 5.10 p.m.
M.R.

Mr. Allan: Before you do that, if it's not going to be made public, I'd prefer not to have it.

Mr. Shibley: It is going to be. There's really -- it's been indicated it's not a problem.

Mr. ^{Chairman} ~~Allan~~: Well, that's --

Mr. Shibley: You have looked at the edited version, ~~xxxxxx~~ Mr. Finlayson, and you've noticed we have deleted the names of X company --

Mr. Chairman: Well, now, I would ask -- that's the point that I wanted to make: Is it deleted in such a way that speculation can't take place?

Mr. Shibley: I'm sure that's so.

Mr. Finlayson: Mr. Chairman, my client is really very upset.

Mr. W. Hodgson: Why can't we take counsel's ^{what's in the letter?} word for ~~the~~ I don't think it's necessary *that we see it.*

Mr. Renwick: I think it should be a public record, *document.*

Mr. Shibley: Well, it --

Mr. Finlayson: Well, I'd ask -- if it's going to be released to the public, I would ask that it not be marked an exhibit and, with great respect, I don't know why ^{you} ~~we~~ can't have Mr. Bradshaw explain the document, ~~if~~ if that's necessary. And, as I say, I have no objection to members of the committee seeing it and I don't see ~~why~~ why it's so necessary to be so tidy all the time and put exhibit stamps on everything, ~~and~~ ^{and} really I don't think there is anything the witness can add to the thing. You can ask him any questions you like on it but --

Mr. Shibley: Well, the only problem is ...

Mr. Finlayson: ~~My client is really upset about this, I may say, Mr. Chairman.~~

Mr. Shibley: ~~I really feel the committee members should have these documents.~~

July 31/73

5:10-5:15 pm

C.B.

~~ask as many questions as possible~~ ^{Mr. Finlayson} (My client is really upset about this, I may say, Mr. Chairman.

Mr. Shibley: I really feel the committee members should have these documents in ~~the~~ front of them when we are deliberating, and in light of ~~of~~ Mr. Bradshaw saying that he doesn't have any problem with them, I'm going to ask that they be made an exhibit because I don't see anything in them that is extraordinary in content.

Mr. Bradshaw: My statement ^{was} ~~is~~ a little gratuitous. I'm not acting for Mr. Moog at this particular point. I have no problem with them because I wanted to talk with Mr. Renwick about them but that may not be the thing that

Mr. Thomson: ^{It's for precisely} ~~the~~ this reason, Mr. Chairman, that I'm here representing Mr. Bradshaw and Mr. Finlayson today ^{ada} represents ~~Cand~~ Square and Mr. Moog. ^{I don't think} ~~and Mr. Bradshaw~~ ^{as} ~~is~~ ^{requisite} ~~the~~ ~~case~~ can bind Mr. Moog ^{at} ~~in~~ this hearing.

Mr. Chairman: We are not suggesting that it does.

Mr. Walker.

Mr. Walker: ^{If it} ~~is~~ is not absolutely essential Mr Chairman, for us to have those. ^{keeping in mind that most} people have tried everything possible to avoid any identification ~~with~~ with the "X" company. ^{it} ~~that~~ being the case, there being a possibility of some detective work, perhaps it would be better if we read in the salient points into the record so that the record itself or Hansard itself provided in effect the appropriate part of the exhibit. Mr. Bradshaw can be cross examined on it and counsel has reviewed the original documents; I doubt that there is any question that the information ~~in~~ that will be found in the record will in any way vary from the original documents. That being the case I would opt in favour of avoiding the exhibiting of ~~the documents~~.

M July 31/73

5:10-5:15 pm

C.B.

Mr. Chairman: Thank you, Mr. Walker. I'm concerned in two ways. The point that you make, I'm not anxious that the committee members should have in their possession information that is of a confidential nature.

Mr. Bullbrook: We have it already. We've been talking about "X" company for two days.

Mr. Allan: ~~But we have had the information~~
Mr. Chairman: All right, but what I'm saying —

Mr. Renwick: I think that will have to be the exception that proves the rule. I don't want to have any more, I have trouble even with the alphabet.

Mr. Chairman: Well, that's what I'm thinking right now. I'm afraid that I myself might slip and I'm not appreciative of having this in my mind and I'm not so sure I want very much more there, although I gather there is nothing that can identify it ~~is~~ in this.

Mr. Finlayson: Well I...

Mr. Chairman: Mr. Allan I think has expressed the same view.

Mr. Shibley: Well then, Mr. Chairman, maybe we'll solve it, I'll just read it ~~in~~.

Mr. Renwick: Mr. Chairman: I want it ^{made} part of the public record if there is any amicable way in which we can do it. ~~My assessment is that~~ My assessment is that regardless of the language of the trust deed and all the rest of it, this is the cornerstone of the commitment on the basis of which funds will be provided which will build the building that we're discussing in this select committee. I find it just a little bit too precious to be too tender about this thing unless there is a very legitimate objection. Now if there is any conceivable idea that someone, by minute examination of the blocking out of the name of "X" company, can do so, then I'd like ~~to~~ under proper auspices ^{to} have the letters retyped on plain paper and the plain paper copy compared with the

July 31/73

5:10-5:15 pm

C.B.

(Mr. Renwick)

original by counsel and have it submitted as a true copy of the original document. That's my only concern.

Mr. Chairman: That was the point that I was trying to make when I asked Mr. Finlayson to make a look at them before I made them an exhibit, ^{or} before I called them an exhibit. I agree that it is an essential document or one of the key documents ~~7~~ maybe not essential but certainly a key document. But I don't want to let it into testimony if we can't ~~4~~ make it a public document ~~4~~.

Mr. Allan: That's my feeling.

Mr. Renwick: I agree with Jim Allan on that.

Mr. Chairman: ~~Now~~ Now on that basis I don't why you can't ² retype it or do what you've suggested so that there can be no possibility, and there may be other ~~other~~

H1615 to follow

July 31st, 1973

5.15 - 5.20 pm

J 1615 - 1

AA

(Mr. Chairman)

~~retype it on the basis of the words that were used~~
~~in the original document. The words, apart~~
from ~~the name of the company~~, that might identify
it in some way that could be . . .

Mr. Walker: The sentence style may do so.

Mr. Shibley: I am quite prepared to have it
retyped.

Mr. Walker: These guys over here are great
detectives you know.

Mr. Shibley: I am quite prepared to have it
retyped, if that's going to help. You see the portions that
have been deleted and I thought it did the trick, but . . .

Mr. Finlayson: Well, perhaps ^{retype} not only retype
it, but we could paraphrase it a bit. You see, as you know,
Mr. Moog went into some detail to explain why he didn't want
this material made public. ~~and~~ The chairman made a ruling
that we were going to proceed in public, ~~but~~ Mr. Moog's concern
is as grave as it ever was, and he has finally had to disclose
the interest rate, now all the terms are also going to be
disclosed.

You will recall that Mr. Moog was very much
concerned about ~~it~~, well, I won't repeat what he is concerned
about because I don't want to make ^{that} public, but you all heard
what he said. ^{I am in} ~~and~~ the chairman's ^{hands} ~~stance~~ in this matter
but I am objecting to it being made an exhibit if that means
that it is going to be made a matter of public record.

Mr. Chairman: Thank you, Mr. Finlayson. I
think that the document is important and should be made an
exhibit and a public document, but I do believe that we should
leave room for auditing, or what is the word I want, editing
it, I suppose, so that ~~the~~ the letter itself will be no
~~way~~ means of identifying the company.

July 31st, 1973

5.15 - 5.20 pm

H 1615 - 2

AA

(Mr. Chairman)

Now, if that will take more time to do, maybe this is a good place to adjourn. I don't know. Mr. Newman.

Mr. W. Newman: Mr. Chairman, one of the things that concerns me, ^{about} I have no idea of what is in the contents of these letters, but in the course of the evidence today, we were talking about several matters ~~about~~ Mr. Bradshaw mentioned the ~~about~~ ^{about} pockets of money, about company "X", about premium income ~~about~~, it's a matter of record in Hansard today. I wonder how far we are going to go before company "X" is going to be identified and I am concerned that if anything in this letter would indicate, subsequently to the evidence that has been given to us today, who it might be, then I don't think we should have it ~~about~~ before this committee.

Mr. Shibley: My own feeling is that the committee ^{is} in need of these documents. I think, as Mr. Renwick says, that they are the cornerstone. They outline the terms. I am quite prepared to ~~about~~ have the whole document retyped or I am quite prepared to read in to the record. It's just so awkward when I read in, in terms of referencing it later, because then instead of having a document to look at when we are dealing with say, Mr. MOOG, or Mr. Coles, we are back to transcript and . . .

Mr. R.G. Hodgson: Mr. Chairman.

Mr. Chairman: Glen Hodgson.

~~Mr. Renwick~~ Mr. Renwick: Mr. Chairman, can't we get copies and then ^{they can} be collected by the clerk at the end of each session.

Mr. Shibley: I think ^{the} better ~~about~~ ^{bet} ~~that~~ ^{the} ~~is~~ I think the better ~~that~~ ^{bet} I must say what I would like to do ~~is~~ ^{is} retype these letters for content on blank paper so that even the spacing ~~of the~~ of the ~~omissions~~ ^{omissions} that has occurred to me as I have just looked at what we have had prepared and the

July 31st, 1973

5.15 - 5.20 pm

AA

H 1615 - 3

(Mr. Shibley)

spacing is starting to worry me.

Mr. Henderson: Agreed.

MR. Shibley: ~~Let~~ Let me have them retyped.

If Mr. Finlayson wants anything further deleted from that material that's already been edited and in his possession, he might let me know and we'll produce these through Mr. Mogg tomorrow.

I would just like to go back and leave those

Mr. Bradshaw: Could I answer then Mr. Renwick's question?

MR. Shibley: Yes, surely.

Mr. Bradshaw: Because if these are going to be retyped, ^{then} I can tell you that the first ~~point~~ point I wanted to make was that this isn't a contract because it's written to Bill Johnson at Ames, rather than ~~it's~~ it's not something I can take and chew on.

Mr. Renwick: I understand that. It's a letter of commitment, ~~essentially~~

Mr. Bradshaw: No, it's a letter telling that the finance committee has approved.

The other thing is that I

Mr. Renwick: Let me just interrupt you there.

From your experience in the business, in the corporate financing business^S, that is tantamount to a letter of commitment in the language of business.

Mr. Bradshaw: I am trying to put my mind back to that, Mr. Renwick, and I am not sure that I have seen one that was written to a third party like that. Now, it's probably because ~~on~~ on an agency matter such as this and this is an agency matter, ^{an} this isn't underwriting, Ames isn't buying it and reselling it, normally, the letter would go from the lender to the borrower. This is the way company "X" does it. ~~just wanted to make this point to you that there can't be a contract~~

H 1616 - 1 follows

(Mr. Bradshaw)

But I just wanted to make that point with you that ~~xxxxx~~ there wasn't a contract.

The other thing is, I agree with you that you know you get the commitment and you get busy and do the bond purchase agreement and it's all over very shortly.

And the only reservation I have about that is that a member of your Alma Mater advised me that there had been a, that company X usually dealt with these things a little more expeditiously than ~~than~~ they did in this case. I don't know what you want to connect from that but it was a, it didn't seem to be going along in ~~a~~ the routine, quite normal course. However, it's running again now.

Mr. Shibley: Mr. Chairman, I know we normally sit to 6:00 o'clock, and I know that Mr. Bradshaw wants very much to get back to his family who are holidaying. My examination to this point, literally, has been spontaneous. I feel that if we were to recess now so that I might have the opportunity of a little more time ~~this~~ this evening and tomorrow morning to make some further preparation, and attempt to brief in a way that would permit perhaps even the whole of the evidence of Mr. Bradshaw to be completed tomorrow morning, it might be a useful way of proceeding.

It's been a long day for me; I'm struggling to try to keep things orderly without having really been briefed to examine Mr. Bradshaw today. I think he's proving a very enlightening witness, and I don't want to lose the opportunity to have his evidence at this early stage because it ^{is} certainly helping me a great deal.

If you will permit that imposition on your time, Mr. Bradshaw, I'm going to ask the Chairman to recess now until tomorrow morning so that I can get away a little earlier, and ask you to reconvene tomorrow morning.

Mr. Chairman, I'm tempted to ask you to convene at 10:30 just ~~a~~ to give me again a little extra time in the morning, and then I might finish with Mr. Bradshaw and go on to complete Mr. Moog thereafter.

July 31, 1973
5:20 - 5:25 pm
JLP

Mr. Deans: Mr. Chairman, did I understand counsel to say he's pleased to have Mr. Bradshaw's evidence at this early stage? He didn't mean this early stage in the proceedings I hope. ~~Mr. Chairman: He didn't mean this early stage in the proceedings. I hope.~~

Mr. Chairman: That's exactly what he meant Mr. Deans.

Mr. Deans: And is it true we are having Boxing Day off as well as Christmas?

Mr. Chairman: Only by a vote of the committee.

Mr. Deans: Why don't you set an hour and we'll come back when you get here?

Mr. Chairman: No, I think we should acquiesce to - if that's the right word - to Mr. Shibley's suggestion.

Mr. Wm. Newman: Mr. Chairman, I come back to a point. I assume that Mr. Shibley has finished with Mr. Bradshaw as far as put-through is concerned and wrap-around?

Mr. Shibley: Well, Mr. Newman, I'd like to think so also; that's one of the things I want to check overnight frankly; he's certainly covered a lot of ground with us today and I - don't ask me to reach a conclusion in that respect right now. One of the things I want to do is check my brief.

Mr. Chairman: If we are agreed to that, I am going to thank you Mr. Bradshaw. You've explained a great deal to us. I'm not going to call you an "expert witness" but you've been very helpful. And you have testified under very difficult conditions, of which all of us realize, and I'm sorry that we will want you here again tomorrow. And I realize again, too, the imposition that it may be on your time. But, we will look forward to seeing all of you back here at 10:30 tomorrow and until 10:30 tomorrow, thank you very much.

Committee adjourned at 5:25 o'clock.

APPEARANCES

Committee members:	J.N. Allan
	J.E. Bullbrook
	I. Deans
	M. Gaunt
	L.C. Henderson
	R.G. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC
Assistant to committee counsel:	J.P. Bell
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square counsel:	Douglas Laidlaw, QC
	Blair Cowper-Smith
	G.D. Finlayson, QC
Campbell, Godfrey & Lewtas and representing Mr. Moog	J.A. Bradshaw
Representing Mr. Bradshaw	Claude Thomson

List of exhibits introduced during this sitting
appears on the next page.

INDEX TO EXHIBITS

Exhibit	Page	Description
194	1582 - 1	Memo by J.A. Bradshaw, Sept. 22, 1972, re high credit lease involving Canada Square and Hydro.
195	1597 - 3	Memo by J.A. Bradshaw, Sept. 8, 1972, re withholding tax exemptions, referable to Canada Square and Hydro head office deal.

#45

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Wednesday, August 1, 1973

Morning session

H-1617-1

August 1/73
10.40-10.45 a.m.
E.M.

LEGISLATURE OF ONTARIO

SELECT COMMITTEE - HYDRO HEADQUARTERS

The committee met at 10:40 ~~xxxx~~ o'clock, a.m. in the members' board room.

Mr. Chairman: Ladies and gentlemen, I ask the meeting to come to order. Mr. Deans' secretary called me today to say that he would not be present as his mother-in-law died last night, so I don't expect Mr. Deans will be back with us either today or tomorrow.

Mr. Shibley, if you would proceed, please, sir.

Mr. Shibley: Thank you.

Mr. Bradshaw, I want to, in chronological sequence if we can, establish the attendances and the communications which took place referable to the financing and the negotiations for the contract itself. Now, just going back with you, I took from your evidence yesterday that on August 15, 19 -- I'm sorry -- that it was not until October 25th, 1971, that you had any involvement on behalf of Canada Square with anyone referable to the Hydro head office building.

Mr. Bradshaw: That was the first time I had any involvement with anyone other than the officers of Canada Square.

Mr. Shibley: I see. And without telling us what the involvement was, when was the first occasion on which you had any involvement?

Mr. Bradshaw: I think it is going to be very difficult for me to tell you that, Mr. Shibley, because my -- you know -- I am relying completely on my dockets or time records, and --

Mr. Shibley: I realize it may not be as precise as

August 1/73
10.40-10.45 a.m.
E.M.

H-1617-2

(Mr. Shibley)

we wish, but I would like to get it as close as possible.

Mr. Bradshaw: I don't know whether some of the meetings, discussions, telephone calls I had with Mr. ~~Mr.~~ Coles were related to financing the Hydro building or whether they were related to other matters ^{that --} you know, if we had a lot going on at the time.

Mr. Shibley: May I ask you this; did you have any contact with anyone referable to the Hydro building in August of 1971?

Mr. Bradshaw: I'll have to get the time records for August to tell you that.

~~Mr. Shibley: You just have to wait, is that right?~~

~~Mr. Bradshaw: Yes, I'm sorry, I picked up~~

(Tape 1616 follows)

August 1, 1973
10.45 - 10.50 a.m.
M.R.

~~(Mr. Anthony Bradshaw)~~

~~I'll have to get the time records for August to tell you~~

Mr. Shibley: You don't have them with you?

Mr. Bradshaw: No, I'm sorry, I picked up - what

I did last night was prepare a chronology of - from my time records of all the times that I met or that any member of our firm met with somebody that wasn't a privileged occasion. I've got that readily handy now but what I didn't do was to go through the ones that were privileged. I'll have to get the time records for the prior period and go through them.

Mr. Shibley: Well, I appreciate that the content of exchanges between you and clients on some occasions may be considered by you as privileged at the moment. What I'm interested in establishing is the chronology of communications, whether the content was privileged or not.

Mr. Bradshaw: I understand you want to know whether I talked to Mr. Moog in August, as early as August of '71 and ---

Mr. Shibley: That's right.

Mr. Bradshaw: I'll try and find that out for you.

Mr. Shibley: And, so that we may have from you a chronology, as I say, of attendances you may not be free to give the information I realize that, but I just want the dates of attendances on your part, either in writing or in telephone or however.

What is the earliest date of which you already have a note of a communication of any kind referable to the Hydro building?

Mr. Bradshaw: Sorry, I'm going to have to be a little bit vague on this. Earlier in October

Mr. Shibley: 1971?

Mr. Bradshaw: I have a note, we have a docket on October 4 that another of my partners, John Wright and I, met with Mr. Coles re financing.

August 1, 1973
10.45 - 10.50 a.m.
M.R.

Mr. Shibley: Yes?

Mr. Bradshaw: But we had more than one deal going at that point. And I can't recall whether or not we were discussing Hydro financing or whether we were discussing ~~something~~

Mr. Shibley: Do you not keep your dockets separate as for Canada Square deals with Hydro with other transactions? Are there not separate dockets?

Mr. Bradshaw: After it becomes - at first ~~something~~

Mr. Shibley: Yes?

Mr. Bradshaw: --for preliminary discussion like that - if you think back of this period in 1971 it was pretty will-o-the-wispish at that particular time.

Mr. Shibley: I realize this. So that it ~~something~~

Mr. Bradshaw: We hadn't separated the dockets *at that point.*

Mr. Shibley: It's something like the Premier's system. Once the key word develops repeatedly or there's enough attendances, you establish it as a separate ~~something~~

Mr. Bradshaw: That's right.

Mr. Shibley: ~~something~~ Docket record, all right.

Now, did you, in early October or at any time during the period up to and including the whole of October, have communication with anyone within Hydro ? ~~yes~~

H 1619-1

3 Aug. 1/73
10:50-10:55 am
PLG

~~(Mr. Bradshaw)~~

~~at any time during the period up to and including the whole of October, have communication with anyone within Hydro.~~

Mr. Bradshaw: Never.

Mr. Shibley: In particular, had you any communication with Mr. Dean of Hydro?

Mr. Bradshaw: Never heard of the gentleman.

Mr. Shibley: Have you any information that anyone within the Canada Square organization was in communication with anyone in Hydro, referable to matters financial or matters legal?

Mr. Bradshaw: Except for the occasion I presume, which Mr. Bradshaw might or might not be privy to, from someone in the Canada Square organization, information received from such persons would be privileged.

Mr. Shibley: Can you answer the question Mr. Bradshaw?

Mr. Bradshaw: I have no information at all regarding meetings or contacts with Ontario Hydro at that stage, Mr. Shibley.

Mr. Shibley: Just to what we can also tie up with that answer, can I take it that that answer would encompass the whole of the period up to the end of October, 1971? You have no information at all from any source as to the communications inter se Hydro and Canada Square?

Mr. Thomson: That's privileged, Mr. Shibley.

Mr. Shibley: Well, I thought his last answer simply said he didn't have it at all, ^{that clears it up.} _{I'm sorry.}

Mr. Bradshaw: No, I didn't have it. I said that I had no information at that time. Of course I have information now.

Mr. Shibley: I realize that.

Mr. Bradshaw: ..It was given to me on a privileged occasion, later on.

Mr. Shibley: But as at the time I am talking about, you had no information from any source?

Aug. 1/73
10:50-10:55 am
PLG

Mr. Bradshaw: That's right.

Mr. Shibley: ^{All right.} When did you become aware of the fact that Mr. Moog had made a visit to a Swiss bank on August 13, 1971, whereat financing for the head office building was discussed by him?

Mr. Thomson: If Mr. Bradshaw first became aware of that from Mr. Moog or some other person in the Canada Square organization, I instruct him not to answer that question.

Mr. Shibley: Well Mr. Bradshaw, what is your position or answer?

Mr. Bradshaw: That would be privileged, Mr. Shibley. I would have become aware of that from somebody in Canada Square.

Mr. Shibley: Did you ever discuss that visit with anyone in Hydro?

Mr. Bradshaw: No.

Mr. Shibley: Did you ever discuss that visit with anyone ~~any~~ outside of Canada Square?

Mr. Bradshaw: I don't ~~know~~ know whether Mr. Johnson at the meeting on October 25 was made aware that there had been a visit, or whether it was just that the terms of the financing available was maybe available to him.

Mr. Shibley: Mr. ~~Brad~~ Bradshaw, I want to know whether you discussed the fact of that visit with the Swiss bank with anyone outside of Canada Square, and if so, I want you to tell us all such persons and all such occasions on which it was ~~at~~ discussed.

Mr. Thomson: Well Mr. Shibley, Mr. Bradshaw discussed that with me. That is certainly privileged. Mr. Bradshaw I presume would have discussed it on other occasions, with other persons on privileged occasions, prior to coming to this hearing, so I presume we are not talking, ~~to those~~.

~~Mr. Shibley: Mr. Thomson, I have instructed~~

~~There is a very strong possibility that the~~
~~material is not a true representation of the~~
~~original and is a copy of a copy.~~

Mr. Bradshaw: Mr. Shibley, the only time that I could have discussed it with anyone outside of the Canada Square organization, or on an ~~un~~^{non-}privileged occasion, would have been with Mr. Johnson. We met on October 25 and we met again on November 11, 1971. I don't know whether we did discuss the meeting.

Mr. Bradshaw: I suppose that in that telephone conversation that I mentioned on August 7, 1972, when we telephoned the gentlemen, Mr. Moog telephoned the gentlemen in the bank, that you could say that that was related to it. I don't think we ~~had~~ ^{had to} discuss the meeting.

Mr. Bradshaw: Yes.

had been at that meeting of the year before on August 13, 1971 when the Premier was there. Now, again I want you to be complete. You've mentioned another occasion. I want to ask you again, right up to the present time, were there any other occasions when you had discussions with persons respecting whom you could not claim a privilege respecting that meeting?

Mr. Bradshaw: Based upon my time records rather than

Aug. 1/73
10.55 to 11.00 am
ivk

(Mr. Bradshaw)

my ~~unaided~~ recollection, to the best of my knowledge, and to the best of my information, I did not discuss the ~~same~~ matter with anybody else on a non-privileged occasion.

Mr. Shibley: Were you present when discussions were held by other persons quite apart from you participating in the discussion?

Mr. Bradshaw: No.

Mr. Shibley: What I am particularly interested in knowing, Mr. Bradshaw, is whether there was any occasion, up to the present time and more particularly up to July 16, 1973, that being the day I might tell you, when the file was first shown to me, that you, on a non-privileged occasion, ~~you~~ were made aware of that trip to the bank and discussions about ~~it~~ it and the documentation that ensued in connection therewith?

Mr. Bradshaw: I think probably, Mr. Shibley, I'll have to go and check my time records for the ~~period~~

(Tape H-1621 follows)

August 1, 1973
11:00 - 11:05 a.m.
B.G.

~~Mr. Bradshaw:~~ Since the agreement was reached.

Shibley:

~~Mr. Bradshaw:~~ All right. I am quite prepared to have you do that, Mr. Bradshaw. Over lunch and recess could you accomplish it then? Because I have a number of matters that will use up the morning anyway.

Mr. Thomson: Do you think it might be expeditious, Mr. Shibley, if Mr. Bradshaw were allowed to call his office so that the appropriate search can be made for ~~those~~ time doskets?

No,

Mr. Shibley: /I think it would be better for Mr. Bradshaw to ~~apply~~ his own mind to that problem because sometimes other people don't recognize the relevancy of certain entries. I think he should do it himself.

Now, Mr. Bradshaw, with respect to the telephone conversation of August 7, 1972, you mentioned yesterday that the Swiss banker, whom you have identified to me by name and I have identified to this committee as being one of the same two Swiss bankers who met with Mr. Moog and the Premier the year before on August 13, 1971, that that gentleman was apparently angered and upset. Is that correct?

Mr. Bradshaw: That was the impression that I got from the conversation and my discussion with Mr. Moog.

Mr. ~~Bradshaw~~ Shibley: And I rather that he was angered and upset because circumstances had developed which prevented the pursuit of financing for the Hydro head office building with that bank. Is that ~~correct~~ correct?

Mr. Bradshaw: No, I don't believe that is. I would like to restate it this way, Mr. Shibley.

Mr. Shibley: All right.

Mr. Bradshaw: I think he was upset that when the Hydro financed in Switzerland they used another bank.

Mr. Shibley: Yes.

H=1621-2

August 1, 1973
11:00 -- 11:05 a.m.
B.G.

Mr. Bradshaw: I don't think it was directly related to having lost a deal with Mr. Moog re Hydro, it was more that when Hydro itself came to the front of the line and took the province's place that ~~the~~^{it} had gone to his competitor.

Mr. ~~Shibley~~ Shibley: Well Mr. Bradshaw, yesterday you put it in the context that they had exhausted their one-time \$20 million loan.

Mr. Bradshaw: Right.

Mr. ~~Shibley~~ Shibley: And that this of course, prevented them from doing business with Mr. Moog ~~re Hydro~~^{re Hydro} because Hydro had in that way ~~exhausted~~^{exhausted} their one-time \$20 million loan. Is that correct?

Mr. Bradshaw: It is correct that Hydro had ~~exhausted its loan~~ exhausted its loan ~~for this present~~ for this present.

Mr. Shibley: Yes, and that was part of the August 7, 1972, conversation. WAS it not?

Mr. Bradshaw: Yes, indeed.

Mr. Shibley: Yes, so that as ~~at~~ at August 7, 1972, that same Swiss bank was indicating a prior intent continuing to that date to ~~participate~~ participate in the funding of the Hydro head office building.

Mr. Bradshaw: That's where you and I differ on that, Mr. Shibley.

Mr. Shibley: Well, I'd like to understand that, Mr. Bradshaw.

Mr. Bradshaw: Well, I will try and explain it again

Mr. ~~Shibley~~ Shibley: Yes.

Mr. Bradshaw: Mr. ~~Shibley~~ ~~Shibley~~ obviously made a contact with the ~~Swiss~~ Swiss.

(Tape H-1622 follows)

August 1, 1973
11.05 - 11.10 a.m.
M.R.

(Mr. Bradshaw)

~~...try and explain it again.~~

Mr. Shibley: Yes.

Mr. Bradshaw: Mr. Moog had obviously made a contact with this particular Swiss bank.

Mr. Shibley: Yes.

Mr. Bradshaw: Regarding the possibility of borrowing funds on the security of the Hydro covenant ...

Mr. Shibley: Yes.

Mr. Bradshaw: ..for the head office building.

No commitment, no agreement, no arrangement was made.

Mr. Moog had ascertained, while he was there, that these funds were available, or I should say that funds were available in Switzerland. He ascertained the amount, the term and the interest rate.

Now, he had said, because he had contacted this bank, I should say what he said but because he had contacted this bank, this bank assumed, I would think, that if Hydro borrowed in Switzerland they would be dealing through that bank.

I think the gentleman was upset because when Hydro borrowed in Switzerland, they borrowed through one of their competitors and, as I mentioned yesterday, the lead bank, the lead bank in the syndicate, that arranged this loan gets the lion share of the commission.

So I don't think that that conversation and the fact that the gentleman was upset indicates that there was any agreement, commitment on his part to head the syndicate that was going to loan money to Mr. Moog for the Hydro building.

Mr. Shibley: Well, Mr. Bradshaw, I'm sorry but that doesn't explain it to my satisfaction. I understand what you've said but I took it from your evidence yesterday and again today that the context in which this telephone call was placed -- I gather the call was placed from your office to

August 1, 1973
11.05 - 11.10 a.m.
M.R.

(Mr. Shibley)

Switzerland.

Mr. Bradshaw: Yes.

Mr. Shibley: The call was initiated by Mr. Moog in your office?

Mr. Bradshaw: Yes.

Mr. Shibley: And I take it that the call had to do with the financing of the Hydro head office building? That's why it was placed?

Mr. Bradshaw: Yes.

Mr. Shibley: And I take it also that part of that conversation was "well, we can't give you that financing now because you've already - Hydro has already exhausted its one time \$20 million loan." Isn't that so?

Mr. Bradshaw: Those funds are not available in Switzerland.

Mr. Shibley: Yes, because you've already exhausted your one time \$20 million loan?

.. Mr. Bradshaw: Right.

Mr. Shibley: Yes. But the whole purpose of the call, Mr. Bradshaw, had to do with a pursuit of funds with the same bank for the Hydro head office building. Isn't that so?

Mr. Bradshaw: Yes.

Mr. Shibley: Yes. Now, you also mentioned that it was very early in the conversation that this gentleman displayed his unhappiness about Hydro having made a loan with another lead bank, if you like. Was it indicated as part of that conversation that there had been earlier conversation as between that banker and Mr. Moog?

Mr. Bradshaw: I can't recall.

Mr. Shibley: I see. Was it any part of the conversation that there had been communication by messenger, so to speak, between Mr. Moog and that man?

August 1, 1973
11.05 - 11.10 a.m.
M.R.

Mr. Bradshaw: No recollection of that at all,
Mr. Shibley. Mr. Shibley, this conversation, I think I
did explain that I really - it's my total recollection of
the conversation rather than my knowledge of any details
of what was said, that I'm telling you about. I can't tell
you about the details of the conversation.

Mr. Shibley: I see.

Mr. Bradshaw: I'm awfully sorry but you know I
would just be making it up if I tried to. ~~I'm not making it up~~
~~know~~

H-1623 to follow

Aug. 1/73
11:10-11:15 am
PLG

(Mr. Bradshaw)

~~I am awfully sorry, but you know, I didn't have any chance to~~

~~if I tried to.~~ You figure it is a year ago now and it is not as if this was an isolated thing. It is just one of many things you are doing every day and all I can tell you is my recollection of after the conversation ^{- you know,} the conversation and Mr. Moog's reaction of the conversation, what my recollection of that is. And I believe I said yesterday when you were asking me whether ~~whether~~ they discussed certain terms, I said no, ~~because~~ there hadn't been any opportunity to discuss any of these things because the gentleman had indicated that the money wasn't available any more in Switzerland.

Mr. Shibley: Yes, ^{but} did you take from the conversation that but for Hydro's having done this other financing in Switzerland, that matters would have gone forward as between Canada Square and that same Swiss bank to fund the Hydro head office building?

Mr. Bradshaw: No, I did not take that from the conversation.

Mr. Shibley: You didn't take that?

Mr. Bradshaw: No.

Mr. Shibley: Well, I am still having difficulties with your answers, Mr. Bradshaw, because the purpose of the call was to discuss Hydro head office financing. This problem of Hydro having funded and taken other funds from the syndicate being an obstruction to Hydro's funding through the same source, was it not a case where this Swiss bank was saying, "Well, we can no longer entertain providing funds for the Hydro head office building because Hydro has already exhausted its one-time \$20 million limit?"

Mr. Bradshaw: Yes, ^{precisely} I agree with your last statement. That was the case.

Mr. Shibley: Yes. So that if that had not been the case, if Hydro had not exhausted its one-time \$20 million limit,

Aug. 1/73
11:10-11:15 am
PLG

(Mr. Shibley)

I gather the intention of the communication on August 7, 1972, was to pursue the possibility of that bank providing the funds for the Hydro head office building.

Mr. Bradshaw: Yes.

Mr. Shibley: Yes. But this other funding got in the way. And you can't help us as to what interim communications took place as between Mr. Moog and that same Swiss bank during the period of August 13, ~~1971~~ 1971 and August 7, 1972, or can you?

Mr. Bradshaw: I can't help you.

Mr. Shibley: You don't know what communications were held as between Mr. Moog and that bank?

Mr. Thomson: If he did they would be privileged.

~~Information~~

Mr. Bradshaw: The only information I would have in that connection, Mr. Shibley, would have been furnished to me by Mr. Moog or another officer of Canada Square.

Mr. Shibley: ^{I see.} Did you ever receive communications from Ames or Equitable or X company referable to the same Swiss bank?

Mr. Bradshaw: No.

Mr. Shibley: Did you in turn ever communicate with them or any of them respecting that same Swiss bank?

Mr. Bradshaw: Certainly not Equitable or X. I go back to the two meetings that were held with Mr. Johnson ~~and~~ ^{and} Ames, and I may have communicated or somebody in my presence may have communicated the name of the Swiss bank.

Mr. Shibley: Now Mr. Bradshaw, I want to direct your mind to the month of November 1971. The committee members will understand that that was an important month by reason of
Tape 1624 follows

(Mr. Shibley)

H-1624-1

August 1/73
11.15-11.20 a.m.
E.M.

1721. The committee members will understand that that was an important month by reason of indications of the intentions of Hydro as displayed in the November 1, November 2 memoranda and the November 22nd and November ^{25th} ~~22nd~~ memoranda. I note that you have now supplemented the chronology of events of that month, Mr. Bradshaw, because Mr. Moog received a letter from that same Swiss bank on November - I'm sorry - wrote a letter to that same Swiss bank on November 10 and on November 11th there was a meeting between yourself and Mr. Johnson of Ames and Mr. Moog and Mr. Coles; is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: And at that meeting you discussed the provision of funds by that same Swiss bank for the Hydro head office building; is that correct?

Mr. Bradshaw: We discussed the financing of the Hydro head office building.

Mr. Shibley: Yes. Did you not tell us that you also discussed the use of Swiss funds for that financing?

Mr. Bradshaw: I'm sure we did.

Mr. Shibley: Yes. And was the information which was being provided to that meeting, information provided by Mr. Moog, as to the Swiss funding?

Mr. Bradshaw: Oh, I am sure it was.

Mr. Shibley: Yes. And was it clear from the information that he was providing that he had had communication with that Swiss bank?

Mr. Bradshaw: I think that either on October 25th or that November 11th, Mr. Shibley, he indicated ~~that~~ he had been communicating with the bank because I think I mentioned he

(Mr. Bradshaw)

H-1624-2

Exhibit 100
11-11-72 20 a.m.
E.M.

produced one of the prospectuses.

Mr. Shibley: Yes. And I must tell you, Mr. Bradshaw, ~~the~~ and members of ~~the~~ committee, that on November 18th we know that that same Swiss bank sent a letter to Mr. Moog, the terms of the letter having been read into the record, and which letter although Mr. Finlayson described it as a turn-down letter and the letter which put an end to any further dealings with that bank, it now appears from your evidence that communications with that bank were still being pursued in your presence as late as August 7, 1972. Is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: So that the suggestion by Mr. Finlayson that that November 18 letter in that file was a turn-down letter and was an end to any effort to ~~the~~ fund this building through Swiss funds is not correct?

Mr. Finlayson: Mr. Chairman, you will recall that - and you can all read the letter - I said that the letter was an answer to two questions and amounted to a polite refusal. Now, Mr. Moog has been cross-examined at a great length with respect to his continued dealing with Swiss sources, so that I think you must take all of the evidence and put it together. I do not think I said that there were no dealings whatsoever after November 18th.

Mr. Shibley: Well, I thought I heard Mr. Finlayson contend that the file was irrelevant because the financing was not Swiss and never had been Swiss. I am now interested to know from this witness that as late as August the 7th, 1972, some eight or nine months after the so-called turn-down letter, the matter is still being pursued by a telephone communication

H-1624-3

August 1/73
11.15-11.20 a.m.
E.M.

(Mr.Shibley)

from Mr. Moog to the same Swiss bank.

Now, Mr. Bradshaw ---

Mr. Chairman: I don't want Mr. Bradshaw put in
the position of saying whether Mr. Finlayson was right or
wrong.

Mr. Shibley: Well, I don't either.

(Tape H-1625 follows)

August 1, 1973
11.20 - 11.25 a.m.
M.R.

(Mr. Chairman)

~~...I don't want Mr. Bradshaw put into a position of saying whether Mr. Finlayson was right or wrong.~~

~~Mr. Shibley: Well, I don't either.~~

Mr. Chairman: That is up to the committee later to decide but if you want to keep him on the ~~last question~~ last question asked, that's fine.

~~Mr. Shibley: I don't have to say that.~~

Mr. Shibley: My only reason for putting the

question now is I'd like to know what it was that Mr. Moog was reporting, so to speak, at any given time to any given set of people because it becomes interesting to ascertain just what was his modus operandi. Now, Mr. Bradshaw, Mr. Moog got a letter on November 18, the content of which is a matter of record before this committee. Were you appraised of the receipt of that letter as at November 1971?

Thomson:

~~Mr. Bradshaw:~~ That would have to be privileged,

Mr. Shibley.

Mr. Shibley: Well, the letter is in evidence,

Mr. Thomson.

Mr. Thomson: I know, but whether and under what circumstance Mr. Bradshaw was appraised of that letter, unless he was appraised of that letter in a non-privileged occasion, it's privileged.

Mr. Shibley: I see. I want it understood and

I don't want to repeat myself throughout, that when these

~~and these~~ claims for privilege are asserted

I don't necessarily accept that they are privileged, and we

are going to reach a point of time that Mr. Bullbrook talks

about regularly where that question may necessarily be

determined, but you are certainly entitled to make your position

a matter of record, Mr. Thomson ...

Mr. Thomson: Thank you.

Mr. Shibley: ...and I'm obliged to you for the

polite manner in which you record your positions.

August 1, 1973
11.20 - 11.25 a.m.
M.R.

Mr. Thomson: I understand your position; I'm glad you understand mine.

Mr. Shibley: Yes. Now, then, I might tell you also, Mr. Bradshaw, that on November 26 Mr. Moog met with Mr. Candy. Were you party to that meeting?

Mr. Bradshaw: No, Mr. Shibley, the first time I met Mr. Candy, as I mentioned yesterday, was on August 3, 1972.

Mr. Shibley: I see. You've told us, Mr. Bradshaw, of two meetings in 1971 having to do with financing, the first being October 25 and the second being November 11, 1971. Is that correct?

Mr. Bradshaw: Yes, Mr. Shibley

Mr. Shibley: And those were the only conversations referable to financing in 1971, other than what you claim would be privileged communications? Is that right?

Mr. Bradshaw: Yes, Mr. Shibley.

Mr. Shibley: Now, then you jump to August 7, 1972, which is the date of the telephone call with that same Swiss bank, and I'm interested in eliciting from you the attendances that you had within that relatively protracted period, respecting the Hydro head office and particularly the financing of the Hydro head office. You can understand my difficulty, I'm left with a void ^{of} ~~in~~ a period November 11, 1971, to August 7, 1972, and can you please explain that void in your evidence to this committee?

Mr. Bradshaw: I don't know how to explain a void. I've told you, Mr. Shibley, that the only occasions on which I discussed the Hydro head office or its financing or anything to do with it with anybody other than just officers of Canada Square are the ones I've given you.

Mr. Shibley: Well, are you telling me then that there were attendances and discussions within that period of time but they were all on privileged occasions?

Aug. 1/73
11.25 to 11.30 am
fvk

(Mr. Shibley)

~~Mr. Bradshaw: Yes, I am.~~

Mr. Bradshaw: Yes, I am.

Mr. Shibley: Now I - without -

Mr. Bullbrook: This I ~~xxx~~ consider very important right now. I consider this, Mr. Chairman, I want you to know I consider it the focal point, as far as I'm concerned, in the testimony of Mr. Bradshaw. Because I don't believe that Hydro became that aware of the internal financing of this transaction as evidenced by the memoranda, purely because of Mr. Moog and Mr. Candy meeting, and I want some explanation of that. But if we can't get it from this witness we'll try and get it from some other witness.

Mr. Shibley: I think you should know, Mr. Bradshaw, what the difficulty is, in fairness to you. The difficulty is that, spread through the Hydro documentation are references to the financing arrangements of Canada Square. On ~~the~~ March 30, for example, Mr. Candy is reporting that the Swiss portion of the funding is secure. On July 18 he is reporting to the commission that it's anticipated that the ~~whole~~ whole of Canada Square's financing would be Swiss. Just to take those two very salient ~~pieces~~ pieces of information, what Mr. Bullbrook is really putting to you, and I'm now putting to you, is what information can you provide to this committee which would assist us to understand the representations made to Hydro, through Mr. Candy, of the nature I've outlined to you?

Mr. Bradshaw: I'm unable to provide any information, Mr. Shibley, because the only information I have has come from representatives of Canada Square.

Mr. Shibley: I see. Then, Mr. Chairman, I must tell you that I must agree with Mr. Bullbrook, it being of ~~the~~ direct impact on the determination by Hydro as to the developer with whom it was to contract, it being a matter of some evidence already as to what information was being provided to Ontario Hydro as to the source of funds, and the cost of funds ~~and~~ and whether the funds were secure or not, that we are into an area that, unless we get very

Aug. 1/73
11.25 to 11.30 am
fek

(Mr. Shibley)

clear answers from some other source, we may well be put to the test of whether we are going to acknowledge a privilege respecting the testimony of this witness. I don't say that you're put to that now, but I am concerned that privilege is not being waived by Canada Square. As for a witness who, if he were relieved of that restraint, could give testimony which is highly relevant, highly probative, and I say again, whose evidence in this respect, I for one would be prepared to accept ~~and~~ as true and complete. It is of some concern to me, therefore, that you should know now that, again, I feel this committee must preserve its position to raise, as a question, the claim for privilege that is now confronting you and preventing this ~~excellent~~ witness. And I say this again, I want to make it perfectly clear; I understand Mr. Treadshaw's position. I think in the areas that he has felt free to give his evidence, he has been very helpful and I had hoped that the privilege would be waived to permit the same kind of help to be afforded the committee in these other areas.

(Tape H-1627 follows)

Aug. 1/73
11:30-11:35 am
PLG

(Mr. Shibley)

~~be asked to submit the same to the committee in these other areas.~~

Mr. Bullbrook: Well may I just, I want to say in fairness to both Canada Square and Mr. Bradshaw and their counsel, that the difficulty I have at times is that I am not sure that the ~~same~~ response that Mr. Bradshaw ^{gives} ~~made~~ to a particular question results from the question of privilege or not, and I would therefore, with your permission, like to ask Mr. Bradshaw a question so that we could define whether he is relying or claiming the incumbent privilege, in connection with the dealings with Hydro. Mr. Chairman and gentlemen, I want to explain my problem. I did somewhat, but the documentation of Hydro leading to the choice of the developer is replete with information ~~extra~~ relative to the financing. Mr. Moog's testimony has been that he didn't regard Mr. Candy as a person of great knowledge with respect to the financial aspects of the transaction. Now we know from exhibit, and I am sorry I can't give you the number, but the responses Mr. Candy made as a result of the requests of Mr. Mink, those responses relate to a conversation between Mr. Candy and Mr. Moog. I think counsel will agree with that.

I want to ask the witness this question; prior to the submission of the proposal by Canada Square to Hydro in connection with the head office building, did you have any dealings with any officials of Ontario Hydro?

Mr. Bradshaw: I did not Mr. Bullbrook.

Mr. Bullbrook: Maybe counsel wants to go further, but that relieves me of a problem that I had in my mind. I hope I haven't unduly interrupted counsel's examination.

Mr. Thomson: Mr. Bullbrook, just let me explain something again as to the limit of the privilege which I have been claiming and rightly or wrongly, giving all credit to Mr. Shibley's position ~~vs~~ which is contrary to mine. My position is simply communications between Mr. Bradshaw and his client are privileged. Communications between Mr. Bradshaw

2 Aug. 1/73
11:30-11:35 am
PLG

(Mr. Thomson)

and third parties are not. Communications between Mr. Bradshaw, even if his client was there when third parties were there, ~~must~~ claim no privilege.

Mr. Shibley: What do you ~~say~~ say as to this Mr. Thomson, and I am really anxious to try and get Mr. Bradshaw's help here. He has helped clear up so many other things. It is clear that Mr. Moog spoke to Mr. Candy about matters financial, and I think it is Mr. Moog's own evidence that Mr. Candy was the vehicle or conduit for ~~some~~ communicating with Hydro throughout and it is equally clear that Mr. Moog is the person who must have told Candy ^{what} ~~that~~ Candy is reporting to Hydro in the memoranda. Now, if Moog has published to Candy information of that type, does that not itself eliminate the privilege which might otherwise have obtained, respecting the self-same information in the sense that let us say that he sat down with Mr. Bradshaw and said to him on or about March 30, 'my Swiss financing is now secure. I have been in touch with them' or however, and then he turns around and says the same thing to Candy and similarly in July he says to Mr. Bradshaw, either before or after talking to Candy, 'I know anticipate that the whole of my financing is going to be Swiss' and he says the same thing to Mr. Candy, and in the meantime he also publishes by production of his files, a June 21 memorandum, ~~whereby~~

Tape H 1628 follows

(Mr. Shibley)

~~the fact that he has disclosed the contents of his thoughts and communications with Equitable Gas to a put-through deal.~~
And again he might well have discussed that with Mr. Bradshaw but having published the same facts to others, does that not again give the privilege? In other words, are we not in the situation where Mr. Bradshaw says, "Well, it having been made a matter of evidence otherwise, it having been a matter of communication otherwise, then the client having made public the information that he made available to me, I'm now free to talk about it as well."

Now, that happens quite regularly, as you know. Maybe that helps us.

Mr. Thomson: Well, Mr. Shibley, my problem is this: Mr. Hoog has testified as to various things that he told Mr. Candy. He will be questioned again I'm sure with respect to other things that he is alleged to have said to Mr. Candy. What you are really asking if this witness is to find out from him whether Mr. Hoog, during these same periods of time, may have said something different to him than he said to Mr. Candy.

Mr. Shibley: ^{Hoog} Not different - really the same is what I'm anxious to find out about.

Mr. Thomson: Yes, but the question, of course, is it may turn out to be different for all anyone here knows, and I'm not saying it was different. I don't want to leave anyone with that impression. Because if I did that I'd violate the privilege. All I point out to you is that - and if you just bear with me for a couple of more moments

Mr. Shibley: Surely.

Mr. Thomson: The problem that every citizen in this country has who is not a lawyer is to get legal advice with respect to business matters and things that are going around about him. Unless any citizen of this

August 1, 1973
 11.35 - 11.40 a.m.
 M.R.

(Mr. Thomson)

province, has got the right to go to a lawyer and kind of unburden his soul in terms of whatever hypothesis, suppositions, if you like, tactics, whatever his method of conduct may have been, in order to say to the lawyer, "Look, here is what I have done, here is what I may do, ^{What} what is the consequence of that? ^{What} what do you advise? ^{What} what do you recommend?"

Now, if this committee or anybody else forces the lawyer to disgorge, to the client's detriment, that kind of information, then you really make it impossible for people to really trust their lawyers.

You see, we are not here, as you know Mr. Shibley, worrying at all about Mr. Bradshaw. The difficulty is that obviously in the nature of this kind of relationship, Moog has told his lawyer all kinds of things which he only told him because Bradshaw is his lawyer and he has come to Bradshaw as a reputable lawyer whom he knows will not violate the privilege. And that's why the exercise. I'm not trying to be legalistic here. It's a very important matter of fundamental rights and fundamental freedom. That's what I'm here talking about.

Mr. Shibley: Well, Mr. Thomson, I think it's fair on the other hand to say that so far I have questioned Mr. Bradshaw in a manner that ^{hasn't} ~~hasn't~~ created the confrontations, reserving ^{that} ~~not~~ to see whether it's even necessary. We've run into problems like this before in this hearing and we never needed the confrontations because we got all that we needed otherwise.

What concerns me at the moment is this: ~~Whether~~ Whether you are of the view that certain information is privileged when in fact it is not privileged, because Mr. Moog himself has published the information to Mr. Candy and through him to Hydro.

Mr. Thomson: Mr. Shibley, ~~yes~~

August 1, 1973
11.35 - 11.40 a.m.
M.R.

Mr. Shibley: All I want to know from this witness is if that - you know, if that was the situation. Now, *what's to follow* —

Mr. Thomson: Mr. Shibley, the information is not privileged. I agree with you. If Mr. Moog publishes information to Mr. Candy, that's not privileged. But what is privileged is what Mr. Moog published to Mr. Bradshaw. That's what is privileged, not the information anymore if he published ^{it}, I agree with you. But what I can't let Mr. Bradshaw do is violate the privilege, the confidence of the client, in what he said to Bradshaw.

Mr. Shibley: So that you leave me in the position, Mr. Thomson, of telling me that if I pursue this line of questioning I am going to be asking him about what he said to Candy, which has been published, and elicit answers from him ~~that would then end the matter~~.

Aug. 1/73
11.40 to 11.45 am
fvk

(Mr. Shibley)

~~... which has been published and ...~~
that, notwithstanding the publication of what he said to Candy, what Mr. Moog said to Mr. Bradshaw, ~~that~~ is not covered by the earlier publication. Do I follow you correctly?

Mr. Thomson: Yes, I think you understand me. I'm going to continue to ~~assert~~ assert that anything that MR. Moog said to Mr. Bradshaw is privileged.

Mr. Shibley: All right. In any event, Mr. Bradshaw, you take the position that whatever may have been your knowledge, or information, as to ^{the} events of November 11, 1971, to August 7, 1972, that knowledge and information was all obtained by you on privileged occasions?

Mr. Bradshaw: You said August 7?

Mr. Shibley: Nineteen seventy-two, yes.

Mr. Bradshaw: On August 3, I met with Mr. Candy. Put that date in ~~there~~ there.

Mr. Shibley: August 3, ~~1972~~ 1972?

Mr. Bradshaw: Yes. That was when I first met Mr. Candy.

He muttered something to me to the effect that he wished ~~he~~ he hadn't ever met me.

Mr. Shibley: I'm sorry, I haven't got that.

~~... I don't think any of us are taking a~~

Dale-Carnegie course in this inquiry

Mr. Shibley: Now, let's ~~let~~ talk about your conversations with Mr. Candy. Was anyone else at that meeting?

Mr. Bradshaw: Yes, that was the meeting, Mr. Shibley, that I testified to yesterday.

Mr. Shibley: On August 3, 1972?

Mr. Bradshaw: That's right.

Mr. Shibley: And was there discussion of Swiss funding for the project then?

Mr. Bradshaw: That was the meeting at which I was given instructions to prepare the agreements. If you will bear with me while I go through my notes I'll see whether I made any note of that.

Aug. 1/73
11.40 to 11.45 am
fvk

(Mr. Bradshaw)

To the best of my recollection, Mr. Shibley, based upon my notes of the meeting, there was no discussion of the financing at that particular time. I'm sorry, just a minute. No, that's right. I turned over two pages but that's correct.

Mr. Shibley: All right. Thank you. I want to refer you to exhibit 61, which is the January 24 submission of Canada Square, Mr. Bradshaw, and particularly page five of the submission. First, I should ask you generally, did you assist in the compilation of this submission?

Mr. Bradshaw: I think I'll have to decline to answer that one too, Mr. Shibley.

(Tape H-1630 follows)

H-1630-1

August 1, 1973
11:45 - 11:50 a.m.
B.G.

~~Mr. Bradshaw: I assisted in the preparation of it.~~

11 Mr. Shibley: Well, the document is published, Mr. Bradshaw.

Mr. Thomson: Mr. Shibley -

Mr. Bradshaw: I assisted in the preparation of it.

Mr. Shibley: Thank you. Can you tell the committee the ~~next~~ portions of that document which were contributed by you?

Mr. Bradshaw: No, we worked together on it, Mr. Shibley.

Mr. Shibley: "We" being yourself and other people within Canada ~~Sq~~ Square.

Mr. Bradshaw: In Canada Square.

Mr. Shibley: All right now, help me if you can because I don't want to go through the whole of it. I moved along fairly rapidly to page 5 because I wouldn't have thought you would have much to do with the architectural cost of construction portion of this document. ~~Am~~ Am I right in that?

Mr. Bradshaw: No, I'm not very good at that stuff.

Mr. Shibley: And then on page 5 are the financial terms which are set out. Term of 30 years, ^{\$20 million,} ~~20 million~~ in Swiss francs at an interest rate of 6 1/2 per cent and ~~so~~ on, is that your contribution?

Mr. Bradshaw: I wouldn't say it's my contribution, Mr. Shibley. Perhaps I should say that one of my functions is to edit -

Mr. Shibley: Yes.

Mr. Bradshaw: - material.

Mr. Shibley: Yes.

Mr. Bradshaw: This material. The information there was obviously provided by officers of Canada Square.

Mr. Shibley: Yes.

Mr. Bradshaw: I may have dictated it to the secretary but, you know, it was information provided by them.

H-1630-2

August 1, 1973
11:45 - 11:50 a.m.
B.G.

Mr. Shibley: ~~Is it~~ When you say edit it, this is a normal thing for a lawyer to review a document to ensure precision as to content -

Mr. Bradshaw: Yes.

Mr. Shibley: - and to ensure that it is, so to speak, legal in its terms.

Mr. Bradshaw: Yes.

Mr. Shibley: And protects the client against over-statement or commitments that he ~~doesn't~~ doesn't intend to make, that sort of things. That's what you mean by editing?

Mr. Bradshaw: In connection with this, I would probably infer that, ~~as a result~~, I probably as I have dictated portions of it to the girl.

Mr. Shibley: Yes, now then in connection with this proposal, you will notice that it is very precise as to \$20 million ~~in~~ in Swiss francs at 6 1/2 per cent, the balance in either U.S. or Canadian at an interest of approximately 7 3/4 per cent. Is that 7 3/4 per cent a figure that evolved from some source, or was that just a speculative figure at that time?

Mr. Bradshaw: I don't know, it was provided by Mr. Moog and Mr. Coles, and I -

Mr. Shibley: All right.

Mr. Bradshaw: - suspect it was on the basis of the discussions with Mr. Johnston, but I don't know.

Mr. Shibley: I see. Based on these arrangements ~~rental~~ rental rate would be - they have not been finalized and I take that to mean that no part of the financing indicated had been finalized at that time, and we will require your full co-operation in assisting us to set up the necessary corporate structure to be able to complete them. Now what is meant by "setting up the necessary corporate structure"?

Mr. Bradshaw: We talked about that yesterday, Mr. Shibley.

Mr. Shibley: So that this had to do with the withholding tax problem. Is that correct?

H-1630-3

August 1, 1973
11:45 - 11:50 a.m.
B.G.

Mr. Bradshaw: Yes.

Mr. Shibley: As if affected Equitable.

Mr. Bradshaw: Oh, Mr. Shibley, you are asking -

Mr. Shibley: ^{Well,} /I'm sorry.

Mr. Bradshaw: You are moving back to that same position.

Mr. Shibley: I'm sorry; you just explain.

Mr. Bradshaw: That memorandum was prepared in September, was it, of 1972?

Mr. Shibley: Right.

Mr. Bradshaw: To sum up, ~~that is~~ ^{but} our ~~thing~~ thinking, but we had been thinking about it for a year by that time.

Mr. Shibley: No, no, I don't think we are in disagreement, Mr. Bradshaw.

Mr. Bradshaw: Okay.

Mr. Shibley: I just want to make it, I am anxious that the committee understand that it was already in your thinking that as early as January of 1972 when the submission was made that ~~there~~ there would be a withholding tax problem, if you were dealing with a U.S. or other foreign lender. Is that correct?

Mr. Bradshaw: Right.

Mr. Shibley: And that one thought that you had conceived of overcoming it would be to form a crown corporation.

Mr. Bradshaw: A ~~corpora~~ crown corporation.

Mr. Shibley: - which would be ~~exempt~~ exempt from withholding tax.

Mr. Bradshaw: Right.

Mr. Shibley: All right, and that's all as evidence for our document now in exhibit.

Mr. Bradshaw: Yes.

Mr. Shibley: And it's the same thought that you intended to be encompassed by this statement in this submission itself.

(Tape H-1631 follows)

Aug. 1/73
11:50-11:55 am
PLG

(Mr. Shibley)

~~that was intended to be understood by this statement in~~
the submission itself. ^{Mr. Bradshaw: Correct. If Mr. Shibley:} In other words, if I put it in these terms; that this was an outclause in terms of this submission. If you were unable to resolve the problem of withholding tax by the idea you had of a Crown corporation or resolve it in some other way.

Mr. Bradshaw: I wouldn't characterize it as an outclause Mr. Shibley.

Mr. Shibley: Well it says: "Will ~~require~~ require your full cooperation in assisting us to set up the necessary corporate structure".

Mr. Bradshaw: ~~To~~ characterize it as an outclause kind of begs the question.

Mr. Shibley: Well, let's put it this way; Had you discussed this structuring with Hydro as at January 24, 1972?

Mr. Bradshaw: I hadn't any discussions with anybody at Hydro, Mr. Shibley, until August 3, 1972.

Mr. Shibley: Well, I am wondering how Hydro was supposed to understand what was meant by the use of that wording in the submission it received from Canada Square. You can't help us as to what communications had been held then with Canada Square as to the formation of a Crown corporation which would circumvent the problem of the withholding tax?

Mr. Bradshaw: I can't help ~~you~~ enlighten you at all.

Mr. Shibley: But it was clearly something that was being considered by Canada Square and it was clearly something that was made part of the proposal of Canada Square in its submission to Hydro. Is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: ^{All right.} Well then, maybe somebody else can help us as to how Hydro was supposed to understand what that wording meant. You didn't send them a copy of your memo, or did

Aug. 1/73

Ex 11:50-11:55 am

PLG

(Mr. Shibley)

you send them a copy of your memo as to ^{the} Crown corporation?

Mr. Bradshaw: I prepared the memo in September.

Mr. Shibley: I realize that.

Mr. Bradshaw: ~~and~~ 1972 and I ~~have~~ have no recollection whether I sent them a copy or not. Now it is in evidence that in discussion with Mr. McCallum, I think the question was raised at one of our earlier meetings and he put it to bed pretty quickly.

Mr. Shibley: Yes, but this submission establishes that it was already in your mind and already part of what you were arranging with Canada Square to be part of its submission that such a ~~company~~ corporation be created.

Mr. Bradshaw: It was a possibility. This is one way around the withholding tax problem.

Mr. ~~Shibley~~ Shibley: And of course you did need Hydro's —

Mr. Bradshaw: It was pretty far out, Mr. Shibley.

Mr. Shibley: Well, it made part of the submission

and you make it clear that you need their full ~~make~~ cooperation,

Mr. Bradshaw: That's right.
And then you go on to say, or I should say the submission:

"If we are unable to borrow the required funds at the ~~the~~ favourable rate, there will be a pro rata increase in the rental rate up to a maximum of \$5.25 per square foot per year."

Now Mr. Bradshaw, with respect to that portion of the submission to Hydro, do I take it that the favourable rates to which reference is made are rates emanating from Swiss funds being the source of funds for Canada Square to build this ~~project~~ project?

Mr. Bradshaw: The funds and rates referred to above.

Mr. Shibley: Yes. That would include the 6 1/2 per cent on Swiss funds and 7 3/4 on U.S. or Canadian, is that correct?

Mr. Bradshaw: Yes.

Mr. ~~Shibley~~ Shibley: Yes. And it was therefore a material part of the submission, and intended to be carefully considered by Hydro when the group of you compiled this submission, that the favourable rate indicated; namely, the 6 1/2 per cent on Swiss

August 1/73
11.55-12.00
E.M.

H-1632-1

(Mr.Shibley)

~~Swiss~~ and seven and three quarters on U.S. or Canadian be obtained; is that so?

Mr. Bradshaw: I don't understand that question, I'm sorry, Mr. Shibley.

Mr. Shibley: Well, I would like to know whether you were emphasizing the importance of those low rates by saying "If we can't get money from those sources and at those rates, ^{rental} ~~the rate~~ may be up to a maximum of \$5.25 per square foot". Is that right?

Mr. Bradshaw: The proposal says that if ~~we~~ ^{they} are unable to borrow at those rates, there will be a pro rata increase in the rental.

Mr. Shibley: Mr. Bradshaw, I don't think I am getting my question across.

Mr. Bradshaw: No, I am sorry, I am a little dense about this.

Mr. Shibley: What I want to know is this, when this submission was made to Hydro, this particular portion of the submission was intended to emphasize in the thinking of Hydro that it was of great advantage that this developer could borrow Swiss money at these low rates.

Mr. Bradshaw: You haven't asked me a question yet.

Mr. Shibley: No.

~~Mr. Bradshaw:~~ Well, I want to ask you whether that was the purpose of the content that I have been referring to.

Mr. Bradshaw: I haven't the slightest idea.

Mr. Shibley: I see, all right. Then let's go on.

Mr. Bradshaw: Can I ~~add anything else~~ add to that, Mr.

Shibley?

August 1/73
11.55-12.00 P
E.M.

Mr. Shibley: Sure.

Mr. Bradshaw: I want to repeat something I have said before, that maybe you don't want to accept it and that may be the problem here, but arrangements weren't made ---

Mr. Shibley: Pardon?

Mr. Bradshaw: This was a source of funds but arrangements weren't made.

Mr. Shibley: I understand that and, of course, ---

Mr. Bradshaw: But what you are suggesting there is that the arrangements that were made were a big selling point, but that isn't what this proposal ---

Mr. Shibley: That is not what I am putting to you; I will make it clear what I am putting to you, Mr. Bradshaw. I am putting it to you that what Canada Square was saying to Hydro is, "We believe we can get money from Switzerland at 6-1/2 ~~per~~ per cent. We are going to ~~make~~ ^{need} your co-operation in arranging that, to get over the withholding tax", right?

Mr. Bradshaw: Right.

Mr. Shibley: In order to get that Swiss money and put it through Equitable, Equitable would have ^Gwithholding tax problem^s; right?

Mr. Bradshaw: No, not right.

Mr. Shibley: You said "right" to the other question but "not right" to that one, eh? All right?

Mr. Bradshaw: I hope ^Athat sometime if I were to slip and say "right", Mr. Shibley, when you put one of those tricky ones, that the committee wouldn't take it as what I really thought.

Mr. Shibley: I see.

H-1632-3

August 1/73
11.55-12.00
E.M.

Mr. Bradshaw: You are better at this game than I am.

Mr. Chairman: You are doing pretty well.

Mr. Shibley: You are better at your game than I am,
Mr. Bradshaw.

But what I am putting to you, you see, Mr. Bradshaw, is whether or not Mr. Moog actually had a commitment ^{to} the representation that was being made to the Hydro was, ^{Sh}He may be able to get Swiss money at 6-1/2 per cent; we need your co-operation to ^{Sh}have a Crown corporation formed to overcome the withholding ^{Sh}tax confronting Equitable---

Mr. Bradshaw: Wait a minute, Equitable?

Mr. Shibley: Yes.

Mr. Bradshaw: I have no knowledge whether Equitable was involved.

Mr. Shibley: All right; "withholding tax, we need your co-operation to form a Crown corporation to overcome the withholding tax problem affecting foreign funds, and if we can't accomplish that, the rate ~~rate~~ may be as high as \$5.25" and this is all directed towards influencing Hydro in believing that Canada Square was the developer ^{with a} unique source of funds with which it should deal.

Mr. Bradshaw: I can't agree with that.

Mr. Shibley: I see.

Mr. Bradshaw: ^{Sh}Wouldn't you look at it another way,

Mr. Shibley? I would just as soon make arguments like this when I am not under oath, because ^{really} that is what you are doing at this point. Couldn't you say that if we can't get these funds then we will have to put the rate up, because ~~these~~ ^{these} funds ~~it is on the basis of these funds at these rates~~

August 1, 1973
12.00 noon - 12.05 p.m.
M.R

(Mr. Bradshaw)

~~it's on the basis of these - getting~~
funds at these rates that we're able to give you a \$4.92 rate.
And the Hydro knew about this source of funds. I mean, it
isn't magic. They got there first.

Mr. Shibley: Well, you know, Mr. Bradshaw, we're
in complete agreement. That last answer is exactly my point.

Mr. Genest: I wish you would expand on that
point, Mr. Shibley.

Mr. Shibley: I think the record will speak for
itself.

Mr. Genest: Now just a moment. I've been
restraining myself but I think that this line of questioning
has been bricky, is ~~leaving~~ leaving innuendo hanging in the
air to which I take great exception. I'm sorry. I think that
last remark counsel has an obligation to explain to this
committee exactly what he means by it.

Mr. Shibley: Well, I mean by it just what I said,

Mr. Genest. I take it that what the witness has said is
that if they could get this money on those terms and with the
accommodation of Hydro to overcome withholding tax and I'm
going to take it one step further, if Hydro would accept the
risk of exchange, fluctuations in the exchange rates, which
is the very next item, that they could get a rate which was
very favorable.

Mr. Genest: Thank you, Mr. Shibley.

Mr. Shibley: All right?

Mr. Genest: Thank you.

Mr. Shibley: I don't see anything tricky about that.

Mr. Thomson: That one is all right.

Mr. Shibley: All right.

And, in fact, Mr. Bradshaw, that was what you were saying,
wasn't it?

August 1, 1973
12:50 noon - 12:05 p.m.
M 9

Mr. Bradshaw: What I was saying?

Mr. Shibley: Yes. I mean, Canada Square was saying?

Mr. Bradshaw: They said if you can't get - if that doesn't all work out, the rate will have to - the rental rate may have to go up.

Mr. Shibley: Yes. That's right.

Mr. Bradshaw: Okay.

Mr. Shibley: And Canada Square was also saying "If you don't assume the risk of exchange rates, the fluctuations in the exchange rates, again the rate would have to be higher?"

Mr. Bradshaw: No, it doesn't say that, Mr. Shibley.

Mr. Shibley: I'm sorry. I thought it ...

Mr. Bradshaw: It comes at the next sentence, as you pointed out.

Mr. Shibley: Well, all right. Let's go back at it more precisely, Mr. Bradshaw. It's also clear from the submission that the proposal is predicated upon Hydro assuming the fluctuation of exchange rates?

Mr. Bradshaw: Yes.

Mr. Renwick: Mr. Chairman, I would like - I'd ask that that be clarified. It would appear to me at that point in time - I withdraw my question.

Mr. R.G. Hodgson: Mr. Chairman, I wonder if I might ask a question.

Mr. Chairman: Mr. Glen Hodgson.

Mr. R.G. Hodgson: Was there any consideration or maybe I have to ask Mr. Mcog this. Was there any consideration in that preparation as to Hydro or the Government of Ontario giving up its place in the pipeline towards funds? Of the Swiss money?

Mr. Thomson: Well, I don't know how Mr. Bradshaw can answer that.

H-1633 - 4

August 1, 1973
12.00 noon - 12.05 p.m.
M.R.

Mr. Bradshaw: In any event, if the proposal
is accepted, it's acceptable.

~~It is recommended that the proposal be accepted.~~

H-1634 to follow

Mr. Renwick: If there's a foreign currency content in the borrowing you would be expecting Hydro to accept the exchange rate?

Mr. Bradshaw: Yes.

Mr. Renwick: Thank you.

Mr. Chairman: Do you have that information for us now,

Mr. Genest?

Mr. Genest: Just a moment. Mr. Chairman, I'm instructed as follows. On or about June 23, 1972, the Union Bank of Switzerland advised the Province of Ontario that financing for the province could not be arranged - for the \$100 million.

Mr. Nastich: Yes.

Mr. Genest: - for the province but could be arranged in the name of Ontario Hydro. Apparently that was by letter?

Mr. Nastich: Yes.

Mr. Genest: The Province of Ontario, on July 11, 1972, informed Ontario Hydro of this advice. That Ontario Hydro got into that picture, it appears, on July 11.

Mr. Henderson: Mr. Chairman, this doesn't completely clear my mind. At what date was this known to Canada Square, and Hydro, that this particular communication here superseded their possibilities? That's the date that I'm really interested in. It could be September ~~or~~ August 7. I'm wondering if it was available ~~then~~ you knew it on August 7. I'm wondering if that was knowledgeable, or the reason that it couldn't be.

Mr. Chairman: Do you have that information, Mr. Genest?

Mr. Genest: I'm sorry, Mr. Chairman. Would Mr. Henderson repeat his question?

Mr. Henderson: I think it's clear to the committee members now, after Mr. Bradshaw's telephone call of August 7, that there ~~was~~ no Swiss funds available to any contractor following that telephone conversation. Was this information available to Hydro

Aug. 1/73
12 05 to 12. 10 p.m.
fak

(Mr. Henderson)

or to Canada Square, previous to that telephone call? ~~Now~~ you know that date?

Mr. Bradshaw: August 7?

Mr. Henderson: Yes, you knew it August 7. Did anyone really know that before that date? This answers ~~when~~ when Hydro knew they could get their \$20 million but it doesn't answer me when Swiss cut off any further; by their own laws it was cut off but when was it knowledgeable to the people involved?

Mr. Genest: I don't think that Hydro ever knew that the fact that they would have placed an issue in Switzerland in ~~the~~ August would interfere with any arrangements by Mr. Moog.

Mr. Henderson: But Mr. Bradshaw knew ~~the~~ August 7?

Mr. Walker: But so did Mr. Moog.

Mr. Henderson: Yes, yes they knew, but was it known ~~the~~ before? ~~That~~ ~~is~~ what I would really ~~like~~ like to know. Is there anything ~~public~~ public knowledge?

Mr. Genest: I can check that. As I'm presently advised the two matters never came together as far as Hydro was concerned. ~~Its~~ Its financing in Switzerland for its normal power requirements was a separate issue from its office building.

Mr. Henderson: ~~the~~ ~~the~~ I was a separate issue but the Swiss bank didn't and it was August 7 before they found out.

Mr. Genest: It may be. We have no knowledge of it.

Mr. Henderson: There is no information, or evidence, is there?

Mr. Chairman: You have to check with the Honorable Mr. Nastich.

Mr. Nastich: Yes, Mr. Shibley, is there something you wanted?

Mr. Shibley: Yes, there is ~~something~~ wanted and that is, Mr. Genest said that there was a communication on June 23, 1972, to the effect that the Swiss funds were not available for Ontario but would be available for Hydro. I would like to know how that Swiss syndicate knew that Hydro was seeking funds at all. What

Aug 1/73
12.05 to 12.10 pm
198

(Mr. Shibley)

were the prior communications with that Swiss Syndicate that would have led them to communicate on June 23, 1972, to the effect, as reported by Mr. Genest, namely that, whereas the funds were not available for the province they would be available for Hydro?

Mr. Nastich: The Union Bank of Switzerland was appointed as the lead manager for the province ~~on~~ on July 10, 1968. That is, the Union Bank was their lead manager in case there was any borrowing.

Mr. Shibley: Yes.

Aug. 1/73
12:10-12:15 pm
PLG~~(Mr. Nastich):~~

~~that we had been in the process of doing~~
~~that we had been in the process of doing~~ We have also used the-- intended to use the Union Bank of Switzerland, and over a period of years we keep in contact with them. They come out here and talk to us.

Now in January, 1969, I was intending to put this in a letter Mr. Shibley so that you could have it, the province of Ontario requested the Union Bank of Switzerland to place them in the queue for possible financing. At that point this is to let us get in the line, and in January of 1972, January 10, the province reconfirmed this, asking if it was possible to get in for 1972, for the province to get in for 1972.

Now on June 23, the Union Bank wrote to the province, but they wrote it through their representatives in Montreal, who forwarded it with a letter of June 29, and this is the reason I am a little unclear. I was trying to find out when it was received here. As far as I can tell, that letter that I am talking about from a Union Bank, arrived on July 4 of 1972, the letter to the province. That June 23 ~~letter~~ letter from the Union Bank was forwarded via the Montreal office, but with a covering letter of June 29, which arrived here, June 29 being a Thursday it arrived here on July 4 or the 5th. I can't give you the exact date yet. We had a letter from the province of July 11, saying "It looks like we can't use it, here is a chance for you. We'll have to take some alternatives." Now the letter, and I haven't got it yet, I just ran through it in the files. I am trying to get a copy. It in effect says, the province can't do it because of a ~~new~~ law that the Swiss government just placed, and they knew that we were in the market on a continuing basis. They knew that we were ~~very much~~ interested in the Swiss and they said, -- this is my recollection -- "If the Hydro was interested, then we could place it in their names." We are not covered, we are a provincial agency and because of the way the law ~~was~~ is worded,

Aug. 1973
12:10-12:15 pm
PLG

(Mr. Nastich)

we are eligible and they are not. They are saying if they are interested, we could put their name in and that came to the Hydro, and we had to decide whether or not we ~~would~~ would want to at that point, use the Swiss financing and on August 15, I said yes at that time, late in July when I got back from holidays and on August 15 we put a memo to the Commission, asking for permission to negotiate an agreement with the Swiss bank and we put our name on it earlier than that. I don't have the exact date yet, but it was after July 11.

Mr. Chairman: Does that answer your question Mr. Henderson?

Mr. Henderson: Well not completely, and I expect its answered. Was August 7 the first date that it was brought together that there definitely is no Swiss financing in view of the actions of Hydro. I am talking about our financing.

Mr. Chairman: When you say 'brought together', you are talking about Hydro..

Mr. Henderson: Well, Mr Bradshaw and Mr. Moog I earned it by a telephone conversation definitely that date that Hydro is borrowing \$20 million, and that it will not be available to any -- another 20 will not be available to any other project associated with Hydro

Mr. Nastich: We were not aware Mr. Henderson of any of the details about what Canada Square was doing. I was talking -- all the dates I was giving with reference to our financing for our capital programme without reference to Canada Square. Now you must remember that in Switzerland, unlike here, they publish ahead of time who is in the queue ~~and~~ because they go around getting subscriptions, who is going to buy the bond, so that once they announce it it would have been passed around to all the major banks in Switzerland, as well as in Germany.

Mr. Shibley: ~~Is~~ When was that Mr. Nastich?

Mr. Nastich: I don't have that date but I can get it for you.

H 1635-3

8 Aug. 1/73
12:10-12:15 pm
PLG

Mr. Shibley: Was it -- you see you have mentioned November 15 as a date, not when you published it or took your line position but I think this is important what Mr. Henderson is getting to and I'd like to get it cleared up as well. Would you give us that chronology again, just the latter part of it?

Mr. Nastich: I will start right off. On July 10, 1968 the Union Bank was appointed as the lead manager for the province. In January of 69 the province requested the bank to place them in the queue for possible financing. On January 10 of 1972 the province requested the possibility of financing during 72 in the Swiss. On June 23, 1972, the Union Bank wrote to the province and forwarded it through _____.

Tape H 1636 follows

August 3, 1973
12 15 - 12.20 p.m.
M.R.

(Mr. Nastich)

~~June 23, 1972, the Union Bank wrote to the Province and forwarded it through~~ their Montreal office on June 29, in which letter they advised that the province of Ontario could not finance ^{through} because of Swiss laws, and that it could be - if Hydro was interested - could be arranged in their name. This arrived, I think, on July 4 or July 5 in the Provincial Treasury and we have a letter of July 11, 1972. Now, I was away on vacation at that time. I didn't get back until the 25th and it was sometime after that that I spoke to the Commission about the possibility of using the Swiss financing as a vehicle for our capital programme.

Mr. Henderson: Mr. Chairman, it's quite -

Mr. Shibley: If Mr. Nastich may complete it now.

Mr. Henderson: Oh, I'm sorry.

Mr. Nastich: The next question is - the next

point is - On August 15, 1972, the Commission formally authorized myself and the Treasurer to negotiate ^{or} ~~an~~ agreement with the Union Bank for whatever terms we could get. They are pretty fixed, but we were to negotiate.

August 28 was when we were in Zurich - of 1972 - and we signed a letter of intent with the Union Bank of Switzerland at an interest ^{rate} of five and a half per cent for 100 million Swiss francs. The issuing price was to be left open until September 15. This is a peculiarity of the Swiss law. The actual agreement was signed on September 15, 1972. ~~It~~ was executed, the bond purchase agreement ^{and} ~~on~~ October 12, 1972 was when the money was delivered.

Mr. Shibley: But Mr. Nastich, I take it that although it was not until August 15 that the Commission formally authorized negotiating for the agreement, you had already communicated prior to August 7 the fact that you were going to take over the line position of the province and that would have been published information in Switzerland?

Mr. Nastich: I think that's true. I will be checking with the Swiss bankers, if I can, *today*.

August 1, 1973
12.15 - 12.20 p.m.
M.R.

Mr. Shibley: Because I think that is what is concerning Mr. Henderson ---

Mr. Nastich: Whether it was public knowledge that Ontario Hydro was intending to borrow in Switzerland prior to August 7th Is that the ---

Mr. Henderson: No, Mr. Chairman, I hate to be persisting on this, but to me - I listened to Mr. Moog's evidence I believe a couple of days ago, where he suggested that it was quite clear in September that there was no Swiss money. Quite clear, he unequivocally qualified that. Now we learn that ---

Mr. Shibley: Mr. Henderson, he said that that it was all called off ---

Mr. Henderson: Earlier ---

Mr. Shibley: --- much earlier. In fact, he said the message he communicated through the emissary in May was that he was sorry, it was all at an end. They weren't going to deal with ^{that} bank.

Mr. Henderson: But he was being questioned about ---

Mr. ^{is} ~~Moog~~ Hodgson: Only one particular bank.

Mr. Henderson: But he was being questioned about a communication of September, ^{is} if I remember right, you were questioning him on a September communication.

Now, we get definite information from Mr. Blacklock as to the reason - this is the first time that I actually understood the reason that Swiss finance was not available --- was that Ontario Hydro, as of August 7, ---

Mr. Bullbrook: What year?

Mr. Henderson: 1972 - on a phone call from Mr. Blacklock, Mr. Moog, to the Swiss bank and it was definitely stated then that in view of the fact that Ontario Hydro had borrowed the ~~tax~~ allotment that could be available to any outside organization, had been taken up and it would not be available. Is that not right, Mr. Blacklock?

Mr. Chairman: Mr. Bradshaw.

August 1, 197u3
12.15 - 12.20 p.m.
M.R.

Mr. Henderson: Or Bradshaw, I'm sorry. Bradshaw.

Mr. Chairman: I thought that was a new name
we were going to see yet.

Mr. Henderson: I'm sorry, on the other committee
I'm on I do have a lawyer by the name of Blacklock. I'm
getting mixed up here.

Mr. Bradshaw: That was my -----

Mr. Henderson: My question then is: When was
this conveyed, or was it conveyed to Hydro^{7B} because again
we look at other communications from Hydro that's on exhibit
and late in July Hydro were still looking at Swiss financing.
So we have definite from Canada Square, August 7 it's off.
So there's a couple of weeks ^{of area} ~~uncertainty~~ in there that hasn't
been cleared up to me.

Mr. Genest: I just want to make sure I understand
your question. You want to know when Hydro learned that
Moog couldn't get financing in Switzerland?

Mr. Henderson: Yes. That's the question
right there.

Mr. Genest: That's another question.

Mr. Henderson: It's not important the part that
you got your money. I understand; *I have those dates.*

Mr. ~~Henderson~~ Genest: In the course of the
negotiations is when I'll have to find out ~~when~~

~~Mr. Henderson: When did you realize when did
you realize that the fact you had got the loan direct, that
it was not going to be~~

August 1, 1973
12:20 - 12:23 p.m.
B.G.

H-1637-1

~~(Mr. Henderson)~~

~~For your information, I understand I loaned these things -~~

~~Mr. Genest: of the negotiations but~~
~~I will have to find out~~

Mr. Henderson: When did you realize that the fact that you had got the loan direct, that it was not going to be available to the Canada Square or any other company that might be building a building.

Mr. Genest: ~~Well~~, Well, as to that ~~of~~ last question, ^{to} as the connection ~~between~~ between the two, I think we have just found that out to-day, or yesterday.

~~Mr. Henderson~~

Mr. ~~Henderson~~ Well, that's me too sir, and -

Mr. Genest: As to the connection between the two, but I think there's another question here, but I don't know if you want the answer to that.

Mr. Renwick: Yes, we do, Mr. Genest.

~~Chairman~~

Mr. ~~WasBath~~ I don't know what the question is but I know we want the ~~M~~ answer.

Mr. Genest: Reminds me of a joke I will tell you in private.

Mr. Chairman: We'll find out all ~~the~~ ^{about} it.

Mr. Genest: Better not make any more statements.

Mr. Henderson: Mr. Chairman, could we ask the representative of Hydro to file us an exhibit, the information they have given us as those dates after lunch.

Mr. Shibley: I think that's a dandy idea.

~~MR. GENEST~~ If we can.

Mr. Chairman: Mr. Nastickh, you have given us a lot of information to-day, but I won't at this point call evidence, but I understand that Mr. Shibley ~~is~~ intends to call you later on so we will -

Mr. Allan: Well, Mr. Chairman, I wonder if that is relevant at all.

Mr. Shibley: Oh yes, it is.

Mr. Allan: As the financing that Hydro did?

H-12637-2

August 1, 1973
12:20 - 12:23 p.m.
B.G.

Mr. Shibley: I think, Mr. Allan, it's a very interesting fact.

Mr. Allan: To me it's interesting, but it's not relevant.

Mr. Shibley: Well, it's, I'm sorry, sir, but I think it is highly relevant because I took from the evidence to this point that Hydro were not aware of what Mr. Moog was doing respecting the use of, I shouldn't say that because there are other documents ^{that} ~~which~~ are in ~~conflict~~ conflict with that.

Mr. ff Chairman: Well, ^{now} maybe -

Mr. Shibley: I think it's important information. I think it's important.

Mr. Chairman: Maybe you can take a minute at ^{our} noon recess and, ~~as~~ I was going to adjourn now until 2 o'clock, so maybe you can take a minute at that time and have a discussion with Mr. Allan and any other ~~members~~ members who might be interested in this form of questioning.

Mr. ~~Renwick~~ Renwick: Mr. Chairman, could I ask Mr. Nastich in whatever memorandum he is preparing to trace that letter that arrived during his absence from the province, which I understand, was July 11th, having regard to the fact that the Commission approved the arrangements, the go-ahead with Canada Square on July 19th, 1972

Mr. Genest: If I may not seem to ~~mean~~ mean: we will do that Mr. Renwick, but I would certainly like to participate in any discussion which indicates how relevant this is. Would Mr. Shibley afford me that privilege?

Mr. Shibley: Surely; yes. Yes, I would be glad to do that.

Mr. Chairman: We are adjourned until 2 ~~o'clock~~ o'clock, p.m.

The committee adjourned at 12:23 p.m.

APPEARANCES

Committee members:

J.N. Allan
J.E. Bullbrook
I. Deans
M. Gaunt
L.C. Henderson
R.G. Hodgson
W. Hodgson
J.P. MacBeth (Chairman)
W. Newman
J.A. Renwick
G.W. Walker

Clerk of the committee:

Paul Moore

Committee counsel:

R.E. Shibley, QC

Assistant to committee counsel:

J.P. Bell

Ontario Hydro counsel:

Pierre Genest, QC
James McCallum, QC

Canada Square counsel:

Douglas Laidlaw, QC
Blair Cowper-Smith
G.D. Finlayson, QC

Campbell, Godfrey & Lewtas and representing Mr. Moog

J.A. Bradshaw

Representing Mr. Bradshaw

Claude Thomson

APPEARANCES

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	J.E. Bullbrook
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	M. Gaunt
	L.C. Henderson
	R.G. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC
Assistant to committee counsel:	J.P. Bell
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square counsel:	Douglas Laidlaw, QC
	Blair Cowper-Smith
	G.D. Finlayson, QC
Campbell, Godfrey & Lewtas and representing Mr. Moog	J.A. Bradshaw
Representing Mr. Bradshaw	Claude Thomson

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Wednesday, August 1, 1973

Afternoon session

August 1/73
2.20-2.25 p.m.
E.M.

H-1638-1

LEGISLATURE OF ONTARIO

SELECT COMMITTEE — HYDRO HEADQUARTERS

The committee resumed at 2:20 ~~pm~~ o'clock, p.m.

Mr. Chairman: Ladies and gentlemen, I call the meeting back to order.

Various persons had various material they were to assemble at noon time. I don't see Mr. Genest here, maybe he has not got his work completed.

Mr. Shibley, have you any suggestions as to how we should proceed? ^{Are you ready to proceed with ---}

Mr. Shibley: I really had hoped that we would have that information from Mr. Genest as the first item of business, Mr. Chairman, because I am anxious to clear up a certain matter which is predicated on the information just elicited today from Hydro. Is anyone ---

Mr. Chairman: Is he out there by any chance?

Mr. Bullbrook: Mr. Chairman, I have a line of questioning ^{that} I would like to undertake ^{that} but I don't want to interfere with the appropriate line of questioning of counsel, but that really doesn't have to do with the question put forward by Mr. Henderson as to the involvement of Hydro with the Swiss bank.

Mr. Chairman: There is probably no reason why you couldn't proceed at this point. Do you see any reason, Mr. Shibley? Well, we have our answer now? Oh, fine.

Mr. Genest: I'm sorry, Mr. Chairman. ^{I didn't know I was ---}

Mr. Chairman: Mr. Genest, you will be glad to know you were missed.

Mr. Shibley: That's not easy to do.

Mr. Genest: ^{By what object?}

Mr. Chairman: Well, if I looked down there and you are not there, I feel something is missing, Mr. ^{Shibley}.

Were you able to get your homework done at noon?

Mr. Genest: It is still being done, I am sorry,

August 1/73
2.20-2.25 p.m.
E.M.

(Mr.Genest)

Mr. Chairman.

Mr. Chairman: You are a lucky man to get somebody else to do it for you.

Mr. Genest: Yes.

Mr. Shibley: Mr. Genest, even though you haven't got it in full particular, I nevertheless am most anxious about one aspect of information that developed from Mr. Nastich this morning. I took it that it was in the year 1972 and particularly in August of 1972 that Mr. Nastich visited Switzerland; is that correct?

Mr. Genest: That is correct.

Mr. Shibley: And had to do with ---

Mr. Genest: In company with, I think, other people from Hydro.

Mr. Shibley: Yes. And when you say in company with other people, whatever attendance was made by Hydro people upon a Swiss bank, of which the one bank with which we have been somewhat interested, was one of only a number of syndicated banks; is that correct?

Mr. Genest: I understand the leader of the syndicate was the bank we have named, which is the Union Bank.

Mr. Shibley: And this other bank was a member ---

Mr. Genest: I don't know the name of that other bank, Mr. Shibley, so I can't help you there.

Mr. Shibley: All right. In any event, what I am most anxious to clear up is this, that whatever attendances were made by finance people from Hydro upon a syndicated Swiss bank were made in the year 1972?

Mr. Genest: That is absolutely correct, ^{it was} but in connection with an issue of Hydro bonds floated in Switzerland.

August 1/73
2.20-2.25 p.m.
E.M.

Mr. Genest: That has been checked thoroughly and no person from Hydro was in Europe in August of 1971. I hope no one finds a secretary climbing a mountain at that time.

Mr. Shibley: Mr. Chairman, I was anxious to record this because of a question I put to Mr. Bradshaw yesterday that might be misconstrued, I want this committee and the public at large to know that I do not have information as at the time I speak to you this very moment that anyone was at that meeting on August 13, 1971 otherwise than as stated by Mr. Moog and the Premier. Now, there had been some confusion about the

presence of the bank officials I am sorry the people in Switzerland

(Tape H-1639 follows)

1st
August ~~188~~ 1973

2.25 - 2.30 p

H 1639 - 1

AA ^m

(Mr. Shibley)

~~about the~~ presence of Hydro, bank officials ~~←~~ sorry, Hydro finance people, in Switzerland in August. There was confusion in that respect and that confusion, I hope, has now been cleared up by enquiries made and the information provided today by Mr. Nastich in his earlier testimony. I just want to put that to rest once and for all.

Now, having done so, Mr. Bullbrook, I am quite prepared to carry on with the witness or if you wish to deal with certain matters now

Mr. Bullbrook: I have some confusion in my mind.

Mr. Renwick: Mr. Chairman, if I might just interrupt for half a second, just as a matter of keeping the ~~record~~ ^{record} straight, I assume Mr. Nastich will, in due course, be called, but, in fact, he was not giving testimony at the time he gave us that information in the technical sense.

Mr. Chairman: And this is volunteered from Mr. Genest today. No, it is not under oath. You are quite right.

Mr. Renwick: Well, I was just referring to the fact that counsel had mentioned it in terms of being testimony and Mr. Nastich, as yet, has not been called before this committee.

Mr. Chairman: No.

Mr. Shibley: I will, of course, ask Mr. Nastich to confirm that under oath but I just wanted it understood that until he indicated today that he ~~was~~ and other Hydro people had been in Europe, visiting a Swiss bank, I was unaware of this background. I think it became very obvious to me what had taken place in terms of the attendance of Hydro people over there and that ^{that} ~~is~~ there was confusion as

August 1st, 1973

2.25 - 2.30 pm

H 1639 - 2

AA

(Mr. Shibley)

to the year of their attendance and because it might be misconstrued, I wanted ^{it} to come out as early and as completely and precisely and unequivocally [✓] as possible at this time.

~~Mr.~~ Bullbrook: Well, I just want to clarify something in my mind that might be jumping ahead of you, Mr. Shibley, and if it does from the premising of my questions, just tell me.

Mr. Bradshaw, I want to relate my thoughts to you about something and put a question to you, if I can, to clarify something. We know from exhibit number 62 that Hydro - I am sorry, 61; that is the proposal of exhibit 61 - I don't really think that it's needed because I am just going to touch on it. We know from exhibit 61, ^{namely} the proposal of Canada Square, that at least at the time of that proposal, Hydro had information that part of the financing would be at 6-1/2 per cent. We know, from other exhibits, that they subsequently regarded the financing as being secure. We know from exhibit number 79, which is a confidential memorandum to Mr. Nastich, the assistant general manager of finance, from J. O. Dean, manager of financial analysis - this has been exhibited to us previously and I just want to read part of it to you. Perhaps you would want to follow this.

Mr. Chairman: What exhibit, Mr. Bullbrook?

Mr. Bullbrook: Exhibit 79. On page four of that exhibit, sir, Mr. Dean is saying the following to Mr. Nastich:

"In general, it must be assumed at this stage that the following judgements are correct:

"(a) that it is preferable to finance the building through a lease-purchase agreement than any other alternative available. (There is no possibility of our borrowing at Canada Square's 7% rate in Canada and specific mortgage arrangements in our name would be complicated by our German borrowing arrangements.)"

August ~~18~~ 1st, 1973

2.25 - 2.30 p

H 1639 - 3 AA m

(Mr. Bullbrook)

I am going to stop there, and the only reason I read that is that in July, there was conjecture on the part of Hydro that general finance rates would be 7 per cent in connection with it.

H ~~1639~~ 1640 - 1 follows

August 1, 1973
2:30 - 2:35 p.m.
B.G.

(Mr. Bullbrook)

~~...the... of the part of... that... and...~~
~~...the... in... with...~~ Now, I want to relate back to your testimony and I want you to correct me if I'm wrong.

You advised yesterday, I believe, that on October 4th, 1972, you first were made aware of company X in relation to the Hydro building by Ames & Co.

Mr. Chairman: Have you got the reference to that?

Mr. Bullbrook: I don't; I'm sorry, I tried to help and I just can't, but I think October 4th are my notes.

Mr. Henderson: 4th or 7th, Jim. ~~...~~

Mr. Bullbrook: Well, I thought the 6th he made his trip. Now, again -

Mr. Bradshaw: My records indicate that it was the second -

Mr. Bullbrook: I'm sorry.

Mr. Bradshaw: ~~that I~~ heard, and that was Johnson at Moog's office: and on the fourth we went to see company X.

Mr. Bullbrook: The 4th you went to New York, yes, two-day span. Well, now, I understood your evidence to be that when you went to New York on October 4th, the question -

Mr. Bradshaw: I didn't say where I went, Mr. Bullbrook.

Mr. Bullbrook: I'm sorry.

Mr. Bradshaw: At least I hope I didn't say where I went.

I wonder ~~was~~ where that is.

~~Mr. Henderson: No, you didn't.~~

Mr. Henderson: You did.

Mr. Genest: No, he didn't.

Mr. Thomson: Let's ~~now~~ get on with it.

Mr. Bullbrook: Well, in any event, in any event, when you went away on October 4th -

Mr. Bradshaw: We went to visit company X.

Mr. Bullbrook: I am going to try, if I can then, because I apologize to the witness if I have done what I might have done. I thought it had been conveyed to us in public session. This is of

August 1, 1973
2:30 - 2:35 p.m.
B.G.

(Mr. Bullbrook)

course, one of the difficulties that we impose upon ourselves and the witness and his counsel, and I do apologize to you, sir, if you haven't made that information available in public as to where you went.

Mr. Bradshaw: All it says here is that on October 4 Mr. Coles and I attended at company X to find out exactly what the requirements were.

Mr. Bullbrook: All right; well then, I might well be in error as to where you went and I ~~apologize~~ ^{apologize} for that. But when you went, I understood the gist of your evidence to be that you didn't go with a view to negotiating the interest rate.

Mr. Bradshaw: Yes, that's right.

Mr. Bullbrook: That the interest rate had been established by that time, and your function was to ~~and~~ develop, in effect, to the satisfaction of company X, the necessary security to continue to fruition the ~~the~~ loan.

Mr. Bradshaw: Correct.

Mr. Bullbrook: Right; so that ~~am~~ I am I correct in assuming that as far as company X was concerned, as of October 4th, 1972, premising that the necessary documentation for security could be arrived at, the rate at 8 per cent had been established?

Mr. Bradshaw: The rate negotiation, if there had been any, Mr. Bullbrook, had taken place before that date.

Mr. Bullbrook: Yes.

Mr. Bradshaw: The question, though, was whether appropriate security could be given to company X.

Mr. Bullbrook: Yes.

Mr. Bradshaw: And we went down to try and find out from them exactly what it was they expected.

Mr. Bullbrook: Yes.

Mr. Bradshaw: And then we were able ~~to~~ in settling the agreement in the leases with Ontario Hydro's representatives,

August 1, 1973
2:30 - 2:35 p.m.
B.G.

H-1640-3

(Mr. Bradshaw)

^a Afterwards, we were able to tailor them to meet the requirements of company X.

Mr. Bullbrook: Yes; that's the very point that confuses me. Am I correct in saying that subject to the preparation of sufficient documentation to satisfy the required security of company X, the loan would go through?

Mr. Bradshaw: Oh no, Mr. Bullbrook.

Mr. Bullbrook: No.

Mr. Bradshaw: It hadn't been presented to either their management or their committee.

Mr. Bullbrook: Well then, help me in this respect. WAS ~~there~~ there any conjecture in anyone's mind, that you were aware of, other than your own client, that there would be further negotiation as to the rate of interest?

Mr. Bradshaw: I am sorry, would you mind repeating that?

Mr. Bullbrook: All right; as far as you were concerned, having regard to the dealings that you had at that time, was there any conjecture in your mind or anyone else's mind, other than a privileged communication, that the rate of interest was still subject to negotiation?

Mr. Bradshaw: I can only tell you what was in my mind.

Mr. Bullbrook: All right; would you let me have that?

Mr. Bradshaw: And my understanding of it was that the rate was ~~fixed at 2 per cent~~

~~Mr. Bullbrook: The rate was fixed at 2 per cent.~~

~~Mr. Bradshaw: Yes.~~

~~Mr. Bullbrook: Well then, this is what I can't understand.~~

~~Why in Exhibit 2.~~

(Tape H-1641 follows)

(Mr. Bradshaw)

was fixed at 8 per cent.

Mr. Bullbrook: The rate was fixed at 8 per cent?

Mr. Bradshaw: Yes.

Mr. Bullbrook: Well then, this is what I can't understand; why in Exhibit 2, mainly the agreement, are there clauses that relate to benefit to Hydro if the rate is less than 8 per cent.

Mr. Bradshaw: Well Mr. Bullbrook, we started the negotiations with Hydro prior to the time that this financing was arranged. In fact, as you know the ~~the~~ so-called committment letter didn't come through since December and Hydro was not privy to our discussions with Company X.

Mr. Bullbrook: No, I know. It is quite obvious Mr. Bradshaw, it is quite obvious that Hydro were not privy to your negotiations with Company X. That is obvious. I put that to you without reservation. I am interested in this; is your answer that the clauses that might benefit Hydro in the agreement, which agreement was if not executed, at least approved formally by Hydro on November 1, ~~is~~ is it your evidence that because you didn't have a letter of committment that still those clauses ~~were~~ relating to benefits to Hydro if the interest rate were 8 per cent were still left in the agreement?

Mr. Bradshaw: I am sorry, I didn't follow that. The agreement was settled during that month of October.

Mr. Bullbrook: Yes, right. During that month of October the final terms of the agreement were settled, ~~the~~.

Mr. Bradshaw: And the committment letter to Ames was not obtained until December.

Mr. Bullbrook: All right. I will try to put the questions in less complex form. On October 4 as far as you were concerned, the rate had been established at 8 per cent.

Mr. Bradshaw: Yes but we didn't know whether we were going to get the money from Company X.

Aug . 1/73
2:35-2:40 pm
PLG

Mr. Bullbrook: I put it to you that whether you got the money from Company X or not was not relevant as far as your obligation under the contract to Hydro was concerned.

Mr. Bradshaw: Right.

Mr. Bullbrook: Right. But that at that very time, as of October 4, in connection with the negotiations of Canada Square with Company X, there was no equivocation as to the rate.

Mr. Bradshaw: So far as Company ~~ME~~ is concerned.

Mr. Bullbrook: Yes. Right.

Mr. Bradshaw: If there had been negotiations of late, they had already been settled. Alternatively it may have been that they were aware, Ames was aware that unless they found somebody that was prepared to loan at 8 per cent, there was no point even presenting it to Canada Square. But I agree with you, the rate wasn't -- the rate was fixed, but there was no assurance that the money was going to be available from that source.

Mr. Bullbrook: Right. I agree with that. I take the position as you do that there was no commitment until December.

If I am going too long on this, you will cut me off I am sure, but I do want to get this in my mind. It is very important for me, for the deliberations I must make as to the dealings between Canada Square and Hydro to get this in my mind correctly.

You agree with me then, under the terms of the agreement eventually executed, that certain benefits accrue to Hydro if the rate of interest on the financing is less than 8 per cent?

Mr. Bradshaw: Yes.

Mr. Bullbrook: Yes. You agree with me also that as far as Company X is concerned, on October 4 the rate of interest was established.

Mr. Bradshaw: Yes.

Mr. Bullbrook: You ~~was~~ agree with me, therefore, that for the benefit to accrue to Hydro, under the terms of that agreement, the financing would have to be done with somebody other than company X.

Mr. Bradshaw: Yes, subject to this Mr. Bullbrook; that if before a commitment was issued, ^{HAD ~~been~~ DROPPED} ~~rates had been dropped~~ substantially, the 8 per cent rate was a rate that had been settled on the basis of the conditions in October.

If when the commitment was issued, when the matter

~~was~~

Tape H 1642 follows

August 1, 1973
2.40 - 2.45 p.m.
M.R.

(Mr. Bradshaw)

... ~~When the matter~~ was approved by the finance committee of the board whoever it was rates had dropped substantially. I think probably Mr. Moog would have gone - wanted to - started to re-negotiate the rate.

Mr. Bullbrook: So you are saying that the answer to my last question is "yes" subject to the following: That during the intervening 27 days, and we are told that the agreement was approved by Hydro on November 1, in the intervening 27 days, the only way that a benefit would accrue to Hydro, if the financing was through company X, is if the rates available under this deal had dropped in those 27 days?

Mr. Bradshaw: No. No, I am not saying the 27 days, ~~until~~ it's until the committee was made, Mr. Bullbrook.

Mr. Bullbrook: No, I ...

Mr. Bradshaw: But it is what I'm saying.

You see, this was ...

Mr. Bullbrook: Follow the distinction, bear with me, Mr. Bradshaw, for a ~~small~~ moment, okay?

Mr. Bradshaw: Certainly.

Mr. Bullbrook: I want to know what's in Hydro's mind on November 1. ~~Okay~~ Okay? What Hydro had in their mind as of November 1 were the terms of that agreement. Okay? Now, you are saying in effect that until the commitment letter was received at that effective rate of interest - right - Hydro might have benefitted? Might have benefitted?

Mr. Bradshaw: It still may if the commitment isn't honoured.

Mr. Bullbrook: Yes. In other words, you are saying that if the commitment from company X falls apart and you're able to get funds at less than eight per cent, Hydro still might benefit?

Mr. Bradshaw: Right.

Mr. Bullbrook: Right. You are a man who used the phrase ...

August 1, 1973
2.40 - 2.45 p.m.
M.R.

Mr. Bradshaw: It's unlikely to happen,
Mr. Bullbrook.

Mr. Bullbrook: You are the man who used the phrase "practical" yesterday in connection with the put-through. Would I be unfair to ask you if that's a practical possibility?

Mr. Bradshaw: That the commitment will fall through?

Mr. Bullbrook: No. That they are able to get money at less than eight per cent?

Mr. Bradshaw: Well, today it would be extremely unlikely.

Mr. Bullbrook: Yes, okay. That's fine.

Mr. Bradshaw: But I - you know, you really do have to add that the building doesn't have to be financed until 1975 and a lot could happen to rates between now and 1975.

Mr. Bullbrook: So you are suggesting, therefore, that if the commitment from company X for some reason does fall through ...

Mr. Bradshaw: Perish the thought!

Mr. Bullbrook: Perish the thought but you are suggesting if it does fall through that there still remains a possibility that Canada Square could get the money at less than eight per cent?

Mr. Bradshaw: Only if - only if interest rates drop substantially, Mr. Bullbrook.

Mr. Bullbrook: Yes, well that's the very point I'm making, from a very practical point of view.

I'm going to put this to you, I'm going to ask you this question and this is where your counsel might come in.

Mr. Bradshaw: Are you awake?

Mr. Bullbrook: He's always awake, I can assure you of that.

Did you or anybody else to your knowledge disclose to Hydro that although you didn't have a firm commitment that

August 1, 1973
2.40 - 2.45 p.m.
M.R.

(Mr. Bullbrook)

you were negotiating at an effective rate of eight per cent?

Mr. Bradshaw: I did not and nobody else, to my knowledge, did.

Mr. Bullbrook: Yes. I want to put this to you that notwithstanding the possibilities that you put forward of dealing with other than company X, as might happen, and getting a rate of interest less than eight per cent, that at the time of the final negotiations of this lease that you and Canada Square were operating on the basis of an effective rate of eight per cent.

Mr. Bradshaw: Yes.

Mr. Bullbrook: Yes.

Mr. Bradshaw: Which was an extremely good rate
Mr. Bullbrook.

Mr. Bullbrook: I want to put it to you also that all the clauses in that agreement that confer a benefit on Hydro, if the rate of interest were less than eight per cent, are in effect nugatory.

Mr. Bradshaw: Well, I won't agree with that, of course, Mr. Bullbrook.

Mr. Bullbrook: Because - and you won't agree with that, Mr. Bradshaw, because of a hypothetical possibility of securing a loan at less than eight per cent? That's the reason and I agree with that because of that hypothetical possibility. You might get it from some place else at less than eight per cent. Then there would be a benefit on Hydro, if that happened.

Mr. Bradshaw: Then Hydro would share in the benefit the saving of the lower rate.

Mr. Bullbrook: Yes, thank you. Those are all the questions I want to put.

~~Mr. Chairman: And then, before we go much further,~~

~~Alan Hodgson has~~

Aug. 1/73
2:45-2:50 pm
PLG

~~Mr. Chairman: Gentlemen, before we go much further, Olen Hodgson has drawn to my attention a section of May, and the thought was going through my mind, even before Mr. Hodgson gave me specific reference to it, that perhaps we should do this. I am going to suggest to the committee after I read this that we ask the press to do something for us, and I am reading from May:~~

"It is a breach of privilege for any person to publish or disclose any portion of the evidence given before or any document presented to a select committee, before such evidence or document has been reported to the House, ^{through} ~~and~~ when witnesses are examined in public, no objection is usually taken to the publication by newspapers of ~~the~~ reports of their examination, provided such reports are fair and accurate."

Now I am afraid that the company name of which we are talking, Company X, may slip out by mistake and in case that should happen, I am going to suggest to the committee that we make that privileged information and that it should not be published by the press or any of the various media until our report ~~is~~ is given to the House. Now it hasn't happened, I hope it won't happen, but I think that is a reasonable precaution maybe to take at this time in case it comes out by inadvertence now. Is that a reasonable restriction to place, in the committee's eyes? I don't want to just do it on my own. Any comments from any members of the committee?

Mr. Thomson: Mr. Chairman.

Mr. Chairman: Yes, I will be glad to hear from you, sir.

Mr. Thomson: Something came out about a city in the United States, and it seems to me that that should be encompassed within this.

Aug. 1/73
2:45-2:50 pm
PLG

Mr. Chairman: That ~~should~~ could be encompassed.

Every time a little information comes down, it gets narrower and narrower, and we are trying to give some protection, I think.

Mr. Bullbrook: I want to cooperate with you fully, sir, and of course I have recorded my apology in connection with that slip of the tongue, and you quite reasonably recognized the confinements we have, but the problem that I find myself in is that in restricting myself I go against the very grain of my feeling. We don't have to be talking about Company X at all, and this is of course what I find internally reprehensible but we have made a decision in that respect and I want to abide by it and I record my apology again. I would trust that there are a lot of financial institutions in the city of New York and I am not quite frankly certain that company X resides in New York.

Mr. Chairman: No, all right.

Mr. Renwick: Mr. Chairman, without further thought, I don't think I'd like to agree at this time to that. As always the specific instance which is put forward ~~is~~ justifying a general rule such as that as being applicable to the hearings of the committee has a certain initial plausibility. I take it that that ruling to which you referred, and I have only ~~never~~ heard it read once, as I am not a diligent student of May's, the way that my colleague for Victoria-Haliburton is, is that the publication by the press of any document which has been put in as an exhibit, which up to this point in time I ~~had~~ had considered to be part of the public record and could be published, either verbatim or by publishing relevant extracts, would be precluded if we were to associate ourselves with that ruling, and I would certainly like to think about it before ~~giving~~ ^{asked to} give a specific approval to such a restriction, because we are purporting here in that instance to impose a restriction on the media which -- well, I would just have to think

(Mr. Renwick)

about quite a bit before I could approve.

Mr. Chairman: Well, all right. I don't want to make a ruling ~~on it~~ on it ~~unless~~ unless it has pretty wide approval from the committee of the whole. It was a fear of mine and a fear of all of us, to support the stand that we have already taken and I am not saying that stand could not be changed, but to support that ~~by~~ ^a by Inadvertence Company X is disclosed that it would be ^a reasonable restriction to place upon the press and the media that it should not be published.

Tape H 16544 follows

August 1st, 1973

2.50 - 2.55 pm

H 1644 - 1

AA

(Mr. Chairman)

~~to place upon the press and the media, that it should not be~~
published. I think that is the main concern of Mr. Moog
and Canada Square, not perhaps that we know about and that
it is known in the narrow circle here, but that it should be
widely publicized and I read this section just to indicate
that May says we have this ~~power~~ power. I understood we had
it in any event, but I am not suggesting that we should use
it to all documents ~~for~~ or even the documents but just to the
identification of the company.

Mr. R. G. Hodgson: Mr. Chairman.

Mr. Chairman: Mr. Hodgson.

Mr. R. G. Hodgson: I think you also have to
take it with page . . .

Mr. Chairman: 629 is the other reference that
is made here.

Mr. R. G. Hodgson: Yes, 629. Inasmuch as the
company, Canada Square, has divulged to us the name of the
company and also that they had requested us not to make that
public. Therefore, so far it is a request to keep that
privileged to the committee.

Now recognizing that and recognizing the other
situation, I just thought that it would be a way at the ~~moment~~
moment to keep that privilege unto the committee, but not
to hinder the hearings or the enquiry and to ~~not~~ not disable
the committee or to, in any way, harm the company in the
deliberation. So that, because they have consistently made
this request -to the ~~committee~~ committee and I had thought
that we were, one by one, narrowing down the ~~field~~ field and
I became very concerned that we might just do this and
violate what we really had intended to do, ~~but~~ but not in
the long run. I make it perfectly clear, this committee, once

August 1st, 1973

2.50 - 2.55 pm

H 1644 - X2

Aa

(Mr. R. G. Hodgson)

tabling their report, no longer have such restrictions. It would be only the House consideration that would apply at that moment, not this committee's and I simply say that that's the period of time that we, as a committee, would have to honour up until that point. And it is only in relation to the name of company "X".

Mr. Chairman: Well, if there is no other comment, I am not going to rule. I thought it was a reasonable suggestion and I have drawn that possibility to the committee's attention, but since there is no further comment on it, I think the consensus would be that I do not so rule at the present time and I won't so do. Mr. Shibley:

Mr. Shibley: Mr. Bradshaw, I just want to complete the line of questioning that was embarked upon by Mr. Bullbrook respecting the 8 per cent provision. There is provision in the contract between ~~Canada~~ Canada Square and Hydro that in the event that Canada Square is able to obtain financing at a cost of less than 8 per cent, Hydro is to share in that savings.

Mr. Bradshaw: That's correct.

Mr. Shibley: And without involving ourselves in the formula respecting that saving, we have been ~~discussing~~ enquiring into earlier thinking of Mr. Moog as evidenced by June 21 memorandum, respecting a put-through of Swiss funds and I remind you that, whereas your conversations with Equitable respecting what you called a wrap-around deal took place in August, his memorandum

Mr. Bradshaw: Mr. Shibley, I didn't say I discussed the wrap-around deal with Equitable.

Mr. Shibley: I thought you had. I thought you said you had some discussions in - well then I stand corrected, I am sorry. - In any event, what I am interested

August 1st, 1973

2.50 - 2.55 pm

H 1644 - 3

AA

(Mr. Shibley)

in knowing is this, that in a put-through deal, the cost of the money is a combination of various elements. Is that correct? It would be the basic cost of the Swiss money. Right?

Mr. Bradshaw: Yes.

Mr. Shibley: And it would be the cost of government tax that is payable for bringing the money out of the country. Is that correct?

Mr. Bradshaw: Withholding. Yes.

Mr. Shibley: There would also be commission costs. Is that correct?

Mr. Bradshaw: Those are the ~~the~~ costs of borrowing. Yes.

Mr. Shibley: -Of borrowing Swiss money, I am talking about now.

Mr. Bradshaw: With any money, yes.

Mr. Shibley: And in order to really establish what is the cost of money to Canada Square for the the Hydro building, if it were a put-through deal, then it would be necessary to analyze the amount

H 1645 - 1 follows

August 1, 1973
2.55 - 3.00 p.m.
M.R.

(Mr. Shibley)

~~to Canada Square for the Hydro building if it were a~~
~~put-through deal then it would be necessary to analyze the~~
~~amount~~ of the various items of cost incurred by Canada
Square in obtaining funds in that manner. Is that correct?

Mr. Bradshaw: The cost - to ascertain the cost
you'd have to ...

Mr. Shibley: Yes.

Mr. Bradshaw: ...take all those considerations -
those matters into consideration.

Mr. Shibley: That's right. To determine whether
the real cost to Canada Square was eight per cent or nine or
seven you'd have to embark upon inquiry as to the elements
that made up its cost if it was otherwise than a straight
loan deal from an institution.

Mr. Bradshaw: Well, some of those costs would be
involved in a straight loan deal from an institution.

Mr. Shibley: I realize that. I just want the
committee members to understand the reasoning behind inquiring
into whether or not this was a - well, inquiring into the
thinking of Mr. Moog as at June at least of 1972 respecting
a put-through deal. In fact, the cost of the money to Canada
Square would turn upon a break-out of the cost of putting that
money through. Is that correct?

Mr. Bradshaw: Well, the cost to Canada Square ...

Mr. Shibley: Yes.

Mr. Bradshaw: ...would, yes. I don't know how
the agreement would apply to that though, Mr. Shibley.

Mr. Shibley: Well, that's my point. The only
interest rate presented to Hydro, of course, would be the
ultimate interest rate but without benefit of knowing how
the - what that money cost Canada Square, Hydro could never
know whether it was entitled to share in the benefits of a
lesser cost. Is that correct?

August 1, 1973
2.55 - 3.00 p.m.
M.R.

Mr. Bradshaw: I think it would help maybe if we looked at the provision in the agreement dealing with this.

Mr. Shibley: Surely, I'd be glad to. It's at Page 25, I believe, Mr. - I think the portion you are looking for is on Page 25 of the Agreement, and it's about three-quarters of the way down. "In the event that the terms on which Canada Square is able to arrange the permanent financing of the building result in an average effective rate of interest over the term of such permanent financing at less than eight per cent per annum, the annual rate of the \$4.84 per square foot under the building lease shall be reduced."

Do you want to refer to something more?

Mr. Bradshaw: The evidence for that is part of the execution. The net lease - this is on Page 26 -

Mr. Shibley: Yes.

Mr. Bradshaw: "Canada Square shall submit to Hydro a certificate from the mortgagee..."

Mr. Shibley: Yes.

Mr. Bradshaw: "...providing the permanent financing of the building, which certificate shall set out the true average effective rate of interest per annum to be charged under such permanent financing."

Mr. Shibley: Yes.

Mr. Bradshaw: The mortgagee, it's going to be the responsibility of the mortgagee to produce that.

Mr. Shibley: Yes, I understand that. Now, what it doesn't say though is what was the cost of the arrangements for funding the mortgage in this sense. Let's take as an example that Canada Square by a put-through deal was receiving some benefit from that process and yet the ultimate rate of the mortgage was eight per cent. This certificate would not solve that problem, would it?

Mr. Bradshaw: I don't think that I am able to envisage the type of put-through deal you are discussing now, Mr. Shibley.

Mr. Shibley: I see.

Mr. Bradshaw: That would result in ...

Mr. Shibley: I'm having difficulty putting a question to you directly because every time I put a direct question then people become concerned because it is so direct, Mr. Bradshaw. All I want this committee to understand is this: That if Swiss funds are put-through a U.S. financial institution, which in turn lends the money to Canada Square at eight per cent, that institution ~~the American Institution~~ can certify ~~it~~.

H-1646 to follow

August 1st, 1973
3.00-3.08 p.m.
M.F.

H - 1636 - 1

(Mr. Shibley)

~~which, in turn, leads the money in Canada Square at 8 per cent~~
~~that is, the American business, and so on, that~~
to
the rate/Canada Square is 8 per cent without disclosure of who
got what on the put-through of the Swiss funds.

Mr. Bradshaw: You are suggesting that they would certify,
that company X would certify, that the effective rate, the true
average effective rate of interest for this mortgage on the
permanent financing, and not take into account ~~the~~ the fact
that they were paying Canada Square some amount -----

Mr. Shibley: Not they, Mr. Bradshaw, someone else.
These fees, etc., as indicated by one document are paid in
Switzerland, and by the Swiss, or to the Swiss.

Mr. Bradshaw: I am sorry, I still can't follow the ~~any~~
because the Swiss are providing money at the lowest possible rate
that it is available. They are not likely to pay money out to
anybody, Mr. Shibley.

Mr. Shibley: Well, Mr. Bradshaw, I understand that there
is a great amount of money available in Switzerland and that they
are most anxious to put their money out. ~~Is that not so?~~
(Mr. Bradshaw: I haven't a clue. You go to London for it.)
Mr. Shibley: I am asking the witness the question, is that so?

Mr. Bradshaw: I don't know that, Mr. Shibley.

Mr. Shibley: You don't know that. Well all right, I will
have to pursue that with Mr. Moog.

Mr. Bradshaw: Okay, good.

Mr. Finlayson: I think we ought to point out that the
province of Ontario has been lining up this money since 1969
and never got it, ~~so I don't think the Swiss are taking money.~~
(That's how anxious to give us)

Mr. Henderson: Mr. Chairman, this form of questioning is
leaving a shadow over people's future, and to me it seems very
unfair, if there is not some evidence to suggest this, that even
this shadow is left up in the air the way it is at the moment.

Mr. Genest: Hear, hear.

Mr. Bullbrook: Were you relating to my line of questioning?

H - 1646 - 2

Mr. Henderson: No, no, just to the last question *by counsel*

Mr. Bullbrook: Because it wasn't ~~at all~~ *in fact* at all.

Mr. Henderson: No, that is right, no. This question here that I am referring to. It is leaving it up in the air and leaving a shadow and I feel it is not fair.

Mr. Bullbrook: Well really, it won't be ~~discussed~~ *discussed* until we make a decision on the evidence.

Mr. Henderson: Well, there should be something to back it up, as far as I am concerned, or are we just throwing this out as a ~~suspicion~~ *suspicion*?

Mr. Shibley: Well, maybe I can answer that.

Mr. Henderson: ~~that's all~~ *this* I am not happy that committee is leaving that shadow ~~there~~ *it* there is no evidence.

Mr. Shibley: Maybe I should do it this way. I think, Mr. Henderson, perhaps I should do it this way. I would like the witness to respond -----

Mr. Henderson: Well, I don't think we should leave a shadow over anybody's head and leave that impression.

Mr. Shibley: I would like the witness shown exhibit 191 again.

Mr. W. Newman: Mr. Chairman, may I throw a little light? ~~that's all~~ I am sorry, I missed part of this, but I assume what you are talking about is the availability of Swiss money? I can assure you I did meet with Swiss bankers last fall on another select committee.

Mr. Allan: ~~Are you sure that was~~ *Are you sure that was* all right?

Mr. W. Newman: I am not so sure about it now, but ---

Mr. Walker: Are you part of the put-through?

Mr. W. Newman: I am just saying that we were informed at that time ~~to~~ *that* take money into Switzerland, they were paying no interest and I believe they were even charging a fee for money coming into Switzerland. The Swiss bankers informed us of this, I believe at a select committee. Mr. Hodgson, I believe, was there and Mr.

August 1, 1973
3.00-3.05 p.m.
M.F.

H - 1646 - 3

(Mr. W. Newman)

Walker was there also at that meeting.

Mr. Shibley: And by that, Mr. Newman, you mean that there is a real surplus of funds in Switzerland?

Mr. W. Newman: No, I didn't say that. What I inferred was that they didn't really want money, they weren't paying any interest to people who were putting it there, which would indicate to me that they didn't want any money. Now whether they had money or not I don't know, but I would assume that they must have had money. ~~They were actually charging a service charge, I believe,~~ as of last fall. We were there in October of ¹⁹72. It has no relation to this case at all, of course.

Mr. Shibley: I might say, Mr. Henderson, that is the only reason I asked the last question of the witness. I had been given to understand that was the situation by Mr. Henderson.

Mr. Henderson: The part, Mr. Chairman, that I don't appreciate ^{in it} ~~is leaving a shadow over some~~ ^{it} and it could be the company in U.S.A. or wherever they are from.

Mr. Bullbrook: Could I say this to my colleague from Lambton, that we didn't author the concept of a put-through here; there is ample evidence, as you recognize, that Mr. Moog contemplated a put-through.

Mr. Henderson: No, that is not what the question was, Mr. Bullbrook. The question here was suggesting that there was some under the table money as I took it from the question, that that was -----

Mr. Shibley: Not under the table.

Mr. Bullbrook: It is not under the table at all. Just so that you will understand this -----

Mr. Henderson: I am not challenging your questioning.

Mr. Bullbrook: All right, ~~I appreciate that it has~~

~~nothing to do with the question, right? I tried to go into disclosure made by Canada to the public as far as the company was concerned in 1972.~~

~~Mr. Henderson: I am not challenging your questioning.~~

Tape H - 1647 follows

Aug. 1/73
3:05-3:10 pm
PLG

(Mr. Bullbrook)

I appreciate that very ~~much~~ much. It had nothing to do with a put-~~thru~~ through, right?

Mr. Henderson: No.

Mr. Bullbrook: It had to do with disclosure made —
~~Mr. Henderson~~ That's right.

~~Bullbrook~~ by Canada Square to Hydro so far as this contract was concerned. That's obvious.

Mr. Henderson: No argument there.

Mr. Bullbrook: May I put this to you, that really our ~~counsel~~ ^{counsel} continues to question, I think he is at the end of it, the aspect of put-through.

Mr. Allan: Are you sure?

Mr. Bullbrook: — As far as this witness is concerned, but I wouldn't want the public to think that we ~~offered~~ ^{introduced} the concept of a put-through. We didn't. Mr. Moog did and he laid the foundation in preparing that ~~test~~ for our counsel to question how far a put-through was ~~went~~.

Mr. Henderson: Well Mr. Chairman and Mr. Bullbrook, the only thing I can indicate to you that our counsel yesterday in his questioning left ~~minimum~~ the doubt in minds that there may have been a fifth ~~or~~ person at a meeting ^A which he has corrected this afternoon ^A of August 13, 1971. He left that doubt yesterday. He left that up in the air and any of them here at the hearing took that impression from his questioning and I take from the questioning that he just completed that he is still convinced ^{or he} ~~there~~ is question in the fact ^{was} there a put-through? This witness has certainly cleared himself of any thoughts of that.

Mr. Finlayson: Well Mr. Chairman, there was no suggestion by Mr. Shibley that this was a put-through. He was talking about a kick-back and that, ~~being~~ ^{implication} the ~~idea~~ and that he has left in this line of questioning, and I agree with Mr. Henderson that if my friend has got some ~~e~~ evidence of that, let's hear it now.

Aug. 1/73
3:05-3:10 pm
PLG

Mr. Shibley: I wonder why everybody uses such very strong terminology. It seems like an invitation to the press to adopt terms used by other people in this room and then attribute them to me as part of my line of questioning, and I must say Mr. Chairman that I take issue with that kind of effort, because my line of questioning was not a line of questioning wherein a kick-back or under-the-table payments were inferred. What I had in mind is the breakdown of what is in Exhibit 191, wherein it unless and until Hydro was made aware of the various payments to various people, making up the cost of put-through money, they could never know whether they were entitled to share in the benefits of an actual cost of money, less than 8 per cent. If you look at the exhibit with me, you will see, Mr. Bradshaw, what I was trying to talk about. It starts off and it says:

"Fees, technical" and something 2.5 million. Financing interim 4.5 million, Financing fees Switzerland, 1.1 million. Commission" something, ".3. Legal and auditing .5." Something else " 12. "

And that all goes to the cost of Swiss money. All I was asking the witness, Mr. Henderson and members of this committee and Mr. Chairman, is unless and until Hydro was informed of the ~~break~~ breakout of the base cost of money, that the certificate of the U.S. institution through which this money was put, that that interest rate ^{was} 8 per cent, would not really ~~dis~~ disclose what was the cost of money to Canada Square. Now isn't that so?

Mr. Henderson: Mr. Chairman. Can I ~~interpret~~ ^{interpret} ~~the~~ remarks to put my mind to rest, that counsel is not suggesting a kick-back as I took from his questioning?

Mr. Henderson: You left that impression with me.
I don't know about other members of the committee. You
certainly left that impression with me.

Mr. Shibley: Mr. Henderson

Mr. Henderson: So if that it was not the case

Mr. Shibley: This is what disturbs me about the use of that kind of terminology in the past. Other counsel particularly have characterized my line of questioning in a given way and immediately the press picks it up and adopts it as if it were my wording instead of theirs. I think it is time that the responsibility for that kind of terminology rests with the people who employ it. Now I'd like to get back to asking this witness whether in fact, unless and until you knew of the breakdown of costs as outlined in a document such as Exhibit 191, Hydro could ever know what was the true cost of funds for Canada Square and thereby know whether it was entitled to share in any advantage.

Mr. Bradshaw ^{No,} ~~Bradshaw~~ Bradshaw: ~~Well~~ I don't agree with you
Mr. Shibley.

Mr. Shibley: All right. Well why not?

Tape H 1648 follows

August 1st, 1973

3.10 - 3.15 pm

H 1648 - 1

AA

(Mr. Shibley)

~~know whether or not the company is a public company~~

~~Mr. Bradshaw: I think the company is a public company~~

~~Shibley:~~

~~Mr. Bradshaw: I think the company is a public company~~

Mr. Bradshaw: You've read these notes to me, and assuming your interpretation of the notes is correct, the cost of interim financing would have absolutely nothing to do with - what's the word? - the true effective rate of interest in the permanent financing.

Mr. Shibley: Nor would the fact of payments of all these other elements of cost. You say they are not important for Hydro to know.

Mr. Bradshaw: The true effective rate of interest would be on the amount ~~amount~~ borrowed, the rate paid on the amount borrowed. I think that Hydro would have a very justifiable objection if ~~the~~ Canada Square calculates the true effective rate of interest ^{as} the amount paid to company "X" based upon the amount of the principal of the mortgage, less the fees and expenses involved in arranging it, because that would put the effective rate of interest up.

Mr. Shibley: Well, Mr. Bradshaw, really all I want to know is this. Let us say that Mr. Moog had been successful in arranging a put-through deal, would it not be material for Hydro to know that it was a put-through deal?

MR. Bradshaw: It might or might not, Mr. Shibley.

~~Remember~~ Remember we talked about two kinds of deal. We talked about the wrap around where ~~the~~ part of the money was advanced by the syndicate of Swiss banks and the other part was advanced by some institution, be it Canadian or U.S., and in that case, the loan would be made ~~by the syndicate~~ ^{there would} be in effect two lenders and Hydro could expect to get two certificates ~~under this provision~~ under this provision, and the calculation of the true effective overall rate of interest

August 1st, 1973

3.10 - 3.15 pm

H 1648 - 2

AA

*(Mr. Bradshaw)

would be based upon whatever Mr. Nastich and Mr. Coles came up with after they'd looked at those figures. There would be one loan at ~~6~~6-1/2 and there would be one loan at whatever is the rate for the wrap around.

The commission or interim financing that Mr. Moog paid, or Canada Square paid, wouldn't be material. The legal and auditing fees wouldn't be material. ~~XXXXXX~~ You'd only be looking at - so much money came from Switzerland and the rate of interest on that is so much as certified by the Swiss bank. So much money came from Canadian institutions, let's assume ~~this~~^t is what Mr. Johnson, I believe was trying to do at one point and you would figure out the amount of money and the interest payable. That would be the effective rate of interest there.

Hydro would be entitled to participate if the overall effective rate was less than 8 per cent. That's the wrap around.

Now, the other one that you are suggesting is a transaction where the institution borrows money from Switzerland. Is that correct? The institution itself borrows money from Switzerland and then ~~it~~ loans it to Canada Square along with some of its own money and it would all be secured by a single mortgage in favour of the institution. I don't know how the institution itself gives security to the Swiss banks. That's something ~~the~~ the whole idea of a ~~put-through~~ ~~because a good deal~~ ~~raises a question in my mind~~, because this is financing based upon the covenant of Hydro to pay rent and somehow or other, the institution ~~the~~ the Swiss banks ~~if there is this put-through, they have to get their security as well.~~

But, in any event, what would happen would be ~~that~~ they would loan the money to the institution and the institution, in turn, would loan it to Canada Square, and again, they would

1649-1 next

August 1, 1973
3.15 = 3.20 p.m.
M.R.

(Mr. Bradshaw)

~~... and ~~say~~ they would~~ be able to certify what ^{the} cost to Canada Square of that money was in terms of what was the interest, the amount of money they advanced and the interest rate on it.

Now, they would be, according to your suggestion, making a profit on the money that they borrowed from — Switzerland, ^{Mr Shibley: Yes.} ~~but~~ they would be making that profit, they would be borrowing, the institution borrows the money from Switzerland at six and a half, somehow or other they give them the security they want and — I don't know what institution this is, because, as I said before, it's very difficult to imagine a life insurance company or a — this type of institution, ^{— you know,} an investment fund, borrowing the money in these circumstances. But they would then be able to shave their rate to Canada Square because they had available to them some money at six and a half per cent.

The effective rate then ^{that} Canada Square would be paying would be the effective rate that was payable to the institution. And if, Mr. Shibley, as a result of this that effective rate was below eight per cent — I mean, suppose it had worked and — Hurrah, here's the original! I don't really feel I should be the one that's privileged to see this first. It's some better. But — If as a result of ~~the~~ being able to make this arrangement, say that it had been possible to make such an arrangement where the institution agreed to borrow the money from Switzerland and to, because it was getting money at six and a half per cent, to reduce the rate that it was charging ^{to} Canada Square, then Hydro would have been able to benefit in that.

The rate would have been below eight per cent.

But what I don't follow, Mr. Shibley, is where the money — ^{You know,} you ~~are~~ ^{were} suggesting that there are ~~are~~ other costs of other payments that somehow Canada Square gets the benefit from this.

August 1, 1973
3:15 - 3:20 p.m.
M R

Mr. Shibley: You see, Mr. Bradshaw, one of the specifications laid down was that the source and the cost of money be disclosed. And I took it that it would be material for Hydro to know the source and cost of money for a variety of reasons. One, to evaluate the amount of money that was going into the building as opposed to the cost of financing. The other having to do with the eight per cent factor built into the contract as to its right to share in any variation in the interest rate.

And that's why I wanted to find out whether the circumstances of it being a put-through deal, with all these elements of cost built into it, was a matter which was material to be disclosed to Hydro.

Mr. Bradshaw: You want my opinion on that,
Mr. Shibley?

Mr. Shibley: Yes.

Mr. Bradshaw: Whether it's material to disclose the cost of borrowing the money, the arrangements that are made *interim financing and*

Mr. Shibley: The specifics, yes. The specifics ~~fact~~ of the arrangement whereby the financing was arranged. Would that not be part of what Hydro would want to be told, having regard for the specification that the source and cost of borrowing was to be disclosed to it?

Mr. Bradshaw: I'm not in a position to answer that, Mr. Shibley.

Mr. Shibley: I see.

Mr. Allan: Mr. Chairman, I wonder if I might say something at this time?

Mr. Chairman: Yes, sir.

Mr. Allan: If, as I had concluded, that we had determined that this money was the money for the financing of this building was coming from a source other than Switzerland, I find it very difficult to persuade myself that we should be

August 1, 1973
 3:20 - 3:25 p.m.
 B.G.

(Mr. Chairman)

...I for one am satisfied, ~~mainly with what Mr. Bradshaw said yesterday~~ that it was almost impossible for any large, respected financial house or any house that was able to put up this kind of money, to be involved in a transaction of this nature because they would not want to sew such a transaction on their books, and in some cases would be, by law, prohibited from doing it. And that, to my mind, foreclosed this kind of possibility.

Now, I don't know whether Mr. Shibley has something else to say where this line of questioning is going, certainly not the credibility of this witness, but maybe to the ~~credibility~~ credibility of some other witness; that is the only line that I see. Now, the committee is asking me ^{TO MAKE A} ~~what the~~ ruling ^{ON IT,} is, I am prepared to do so, but I would like Mr. Shibley to have an opportunity to speak to it first.

Mr. RENwick: Well Mr. Chairman, before you make any ruling such as that, I think the matter should be ~~discussed~~ discussed in an executive session of the committee; certainly I am very much concerned, regardless of the ultimate outcome of the financial arrangements as to what took place during ~~certain~~ ^{crucial} certain crucial periods, and one of the ~~periods~~ in my mind is, to the extent that one can divide it up, is the period of June, July and August of 1972, and I haven't yet ~~got~~ got a clear perception of what all of the aspects of the intense, if I may use the term ^{activity,} ~~in which~~ in which everybody was engaged at that time, what all of the aspects of it are. And I would like to know that because we have to clear that up regardless of the final results. Now, if ~~there~~ there is going to be a discussion by the committee about this area, I think in all fairness to ourselves, we have got to do it in executive session so that we can clarify the issue. It seems to me that the question which has been put to Mr. Bradshaw, that he is one of the people who can ~~help~~ help us because of his knowledge of the matters, and because his background and experience would be most helpful to us.

H-1650-2

August 1, 1973
3:20 - 3:25 p.m.
B.G.

Mr. Wm. Hodgson: Mr. Chairman, I have great respect for Mr. Renwick and his ability to grasp these things, one of them is a mind, I'm sure, that is far keener than we laymen, but I would like Mr. Renwick, if there is any question that he has doubt about, in that period, ~~whether it~~ whether it was a put-through deal of Swiss money ~~for~~ or otherwise, why, ask the question directly. Let's have it: let's stop beating around the bush and going ten ~~mile~~ miles to get a forty rod ~~across~~ across some place. Let's have the question now. As I say, I am a ~~some~~ layman, I am a farmer, but if we run our business this way, by God, we would go broke in six months.

Mr. Chairman: We haven't completed the six months yet, so -

Mr. Wm. Hodgson: Damn close ~~to~~ to it. Let's get on with the pertinent questions instead of beating around the bush. All this suspicion, that I'm getting thoroughly fed up with. Now, I am really getting fed up with it, you know we ^{came} ~~can~~ here yesterday and had Mr. Bradshaw in the witness stand, and we are going over the same damn things we went over yesterday.

Mr. Chairman: Well, that's what bothers me. When Mr. Bradshaw came in it was indicated that he would be not here for very long and ~~at~~ now, it is almost the rest of this ~~and~~ ³ second day, and I don't think that is really the way we want to conduct the business.

Mr. Henderson: ~~Mr. Chairman,~~ Before you make any ruling on this Mr. Chairman, to me it appears as if we are out on a witch-hunt every day, and it has become - just a moment, Mr. Bullbrook.

Mr. Bullbrook: You've got to stop using these phrases.

Mr. Henderson: Okay.

You;
Mr. Bullbrook: Really do.

Mr. Wm. Hodgson: It's better than some of the legal profession use.

Mr. Henderson: Well, Mr. Chairman, I can agree with Mr. Hodgson. ~~The~~ To the ordinary layman, to the people of this province

August 1, 1973
3:20 - 3:25 p.m.
B.G.

(Mr. Henderson)

this committee is becoming a disgrace to the Province of Ontario and to the members of the Legislative Assembly.

Well,
Mr. Bullbrook: I disassociate myself from that remark.

Mr. Henderson: You can disassociate as you like, but this is becoming very disappointing and very disgusting to the people of Ontario. Here we have an honourable gentleman and we are challenging his word under oath. I am very proud of Mr. Bradshaw and the evidence he has given.

Mr. Chairman: I don't think anybody ~~will have time~~.
MR. HENDERSON: We should get down to the some of the facts that are before this
MR. CHAIRMAN: I don't think anybody was challenging Mr. Bradshaw's
word, I think we are asking Mr. Bradshaw to answer -

W. HODGSON: Verify what he said ~~not matter~~ yesterday.

MR. HENDERSON: Verify it to-day.

Mr. Chairman: Well, we are asking some very difficult questions and I honestly don't think we are being ~~completely~~ completely fair to ~~Mr. Bradshaw~~.

(Tape H-1651 follows)

Aug. 1/73
3:25-3:30 pm
PLG

(Mr. Chairman)

~~Well we are asking him some very difficult questions and I am honestly don't think we are being completely fair to~~

Mr. Bradshaw to kind of conduct the cross-examination of him. Now that is the Chairman speaking and I don't think that we have been quite fair in effect conducting a cross-examination of Mr. Bradshaw.

Mr. Bullbrook: I want to know something from you because these all-embracing statements cause me some concern. I want to know Mr. Chairman if you felt that the line of questioning that I ~~undertook~~ undertook was unfair?

Mr. Chairman: No.

Mr. W. Hodgson: I wasn't alluding to you Mr. Bullbrook.

Mr. Bullbrook: I know. I know. I want to record something. May I say this to you that I really think that the question of put-through has not been laid to rest entirely, but I want to say most ~~respectfully~~ respectfully, I think it has been laid to rest as far as this witness is concerned, I really do feel that.

Mr. Chairman: Well that is the point I am getting. We are asking him the same questions about put-through and I think he has given us his answers on them. Now,

Mr. W. Newman: Mr. Chairman, just to make ~~the~~ the record straight, I asked a question yesterday morning on 1102 and we have been almost two days and there has been some other pertinent information, but basically we have been almost two days ~~answering~~ answering my question.

Mr. Chairman: Well it was asked.

Mr. Walker: Ask it again.

Mr. W. Newman: No. If you are going to rule that I can't, I'd still like to pursue my question from yesterday morning at 11 o'clock.

Mr. Chairman: I thought it was answered yesterday Mr. Newman.

Mr. W. Hodgson: I think Mr. Newman is entitled, as far as I am concerned Mr. Chairman, to an unqualified yes or no to his question. It was a ~~very~~ straightforward question and he hasn't received that in yes or no yet, from this ~~want~~ witness.

Mr. Chairman: I am happy that he should ask it again if he wants it, but on the other hand, that is what I am objecting to, the same question being asked so many times. I think it has been answered, but if you want to put it again...

Mr. W. Hodgson: Well I think it has been answered, but it sure hasn't been answered in a yes or no manner and if you want to read ~~the~~ Hansard, the whole script, why you might get your answer out of it, but the people of the province of Ontario haven't received the answer yet.

Mr. Chairman: Well Mr. Newman, do you want to put that question?

Mr. W. Newman: Well Mr. Chairman, the trouble is, I'd like to expand on my question slightly at this time.

Mr. Walker: As long as you don't take another day.

Mr. W. Newman: Mr. Chairman, if I may ask Mr. Bradshaw, we all respect what he has done for us here. I have every confidence in what he has said here. Even our own counsel said he believes everything that ~~he~~ he has told us. You are connected with the firm that does handle Mr. Moog's business. Is that not right Mr. Bradshaw?

Mr. Bradshaw: Correct.

Mr. W. Newman: And ~~so~~ you have been involved in the financial negotiations on ~~the~~ behalf of Canada Square throughout this -- prior to this hearing and through the hearing, either you or your partner, and you are fully familiar with the financial arrangements that were made with Company X.

Mr. Bradshaw: I am fully familiar with the financial arrangements so far as they have been disclosed to ~~the~~ firm. To answer your question, if there is a suggestion that there is

(Mr. Bradshaw)

something I don't know about, then I can't say under oath I am fully familiar with the financial arrangements. I thought I was fully familiar with the financial arrangements.

Mr. W. Newman: Then my question would follow through, going back to yesterday. To the best of your knowledge and ability, with your knowledge and ability with Canada Square, is there any way in your mind or any doubt in your mind, that any sort of put-through or wrap-around deal could have been consummated?

Mr. Bradshaw & Shibley: And are you giving that answer with a waiver of any privilege?

An hon. member: What the hell do you think this is?

Mr. Henderson: Mr. Chairman, that is another decision.

Mr. Thomson: Mr. Chairman, the witness nor I have no right to waive any privilege. If the witness feels that he cannot answer that question without dealing in ~~his~~ breach of a privilege, he will not answer it. Mr. Shibley has chosen to bring the matter back to our attention. Thank you.

Mr. Chairman: Mr. Newman.

Mr. W. Newman: Mr. Chairman, would Mr. Bradshaw be willing to answer my question.

Mr. Bradshaw: Well, I think the question was put to me yesterday, and I would like to explain my answer here. I think you know what my answer is.

Mr. W. Newman: Sure I do, I just want it...

Mr. Henderson: We want the people of Ontario to ~~know~~ know.

Mr. Bradshaw: Well I think I have already answered it. They are doing a job on me now with the privilege bit. Does Mr. Shibley not want my answer to that question?

Mr. Shibley: I'd love to have your answer but I'd like it with your being able to give it free of any restraint Mr. Bradshaw.

H 1651-4

Aug. 1/73
3:25-3:30 pm
PLG

Mr. Chairman: Well that is not the way Mr. Newman asked the question and it is Mr. Newman's question.

Mr. Bradshaw: I think I will have to build up to it this way and say that I attended on Company X with Mr. Coles and a representative of Ames. We discussed the transaction, ^{AND} ~~then~~ since talked to the representative from Ames. ~~Mr. Bradshaw~~ ~~Mr.~~

Tape H 1652 follows

August 1st, 1973

3.30 - 3.35 pm

H 1652 - 1

AA

(Mr. Bradshaw)

~~the transaction. Since failed to the representatives from Area.~~

My partner, Mr. Steadman, has been engaged in preparing the documentation in connection with the matter, and based upon all of that, I would say there is, in my view, no possibility that there is a put-through or wrap ~~up~~ around in connection with this matter.

Mr. Thomson: Mr. Chairman, may I have, with your permission, read a question and answer that was put to Mr. Bradshaw yesterday. Mr. Chairman: Yes sir. Mr. Thomson: The question by Mr. Shibley was and I am looking at page H-1605 - 1, "So that, as far as your knowledge and information is concerned, Mr. Bradshaw, to the extent of your knowledge and information, the funding of this project by ~~the~~ company does not include the use of Swiss funds or the provision of Swiss funds, directly or indirectly.

"Mr. Bradshaw: That's right, Mr. Shibley.

Now, I think that the people of the Province of Ontario, to whom Mr. Henderson referred, ~~it~~ should now be ~~be~~ aware that this witness gave, under oath, yesterday, was that to the extent of his knowledge and information, the funding of this project by ~~the~~ company does not include the use of Swiss funds or the provision of Swiss funds, directly or indirectly. Now those are the words of your counsel ~~and~~ the witness's answer was, "That's right, Mr. Shibley."

Mr. Chairman: Thank you for finding that.

Mr. Thomson: And indeed after that, Mr.

Newman then commented, "I think I have got it clear" and Mr. Shibley says "OK" and then we get into the question where Mr. Bradshaw gave his reasons why, and you recall the comment and discussion thereafter.

Mr. Henderson: Well, then, Mr. Chairman, the complaint from me, as a committee member, is that here is an honourable gentleman, under oath, has given a clear and fair answer and we apparently don't accept it as committee

August 1st, 1973

3.30 - 3.35 pm

H 1652 - 2

AA

(Mr. Henderson)

members.

Mr. Chairman: Well, I am not going to ~~answer~~

Mr. Henderson: That's my impression of the way the hearing is progressing to day.

- Mr. Chairman: I have made my statement that I think we have asked him the question over and over again.

Mr. Allan: Mr. Chairman, I don't think that one member can speak for the other, *members of the committee.*

Mr. Chairman: No.

Mr. Henderson: I am speaking for myself.

Mr. Chairman: All right, but as chairman I have got to try and arrive at a consensus. It is not always easy. Are there any other questions that anybody has of Mr. Bradshaw:

Mr. Renwick: Mr. Chairman, may I now ask a question?

Mr. Chairman: You certainly may, *Mr. Renwick.*

Mr. Renwick: Assuming, as I do, on the basis of the evidence which we've discussed, that in the summer of 1972, at some point in time, for whatever the reasons, and they are not all that clear, but strangely enough, they are becoming clearer because of this kind of problem that we run up against and they would not have become clear otherwise, *A* Assuming that there was a change in the basis of financing and the evidence does indicate that a plan called a put-through was at least in contemplation, whether it was realistic or not, it was at least in contemplation, *I* Is there any way in - and I am not now asking you in your capacity as the ~~law~~ lawyer for Canada Square, *I* I am asking you in your capacity as a person knowledgeable in the field - in which the spread, if there were a spread of 6-1/2 to 8 per cent, between the rate at which the funds were made available to Hydro and the rate at which the funds were advanced in

August 1st, 1973

3.30 - 3.35 pm

F 1652 - 3

AA

(Mr. Renwick)

Switzerland, in what ways could Mr. Bradshaw help us as to how that spread could be cut up, apart from being straight profit?

Mr. Bradshaw: You mean how could somebody else get their hands on the profit - on the

Mr. Renwick: Part of the spread.

~~Mr. Mr. Allan:~~ *That's quite a question.*
Mr. Bradshaw: I'd be glad to work on that

problem, Mr. Renwick, but it's going to come awfully badly from counsel or solicitor for Canada Square, to be figuring out ingenious schemes - maybe they won't even be ingenious, to try and figure it out. I wish that - I am sure you can think of ways to do it. A couple spring to my mind but - do you really want me to answer that question?

Mr. Thomson: Are there any honest ways that spring to your mind?

H 1653 - 1 follows

August 1, 1973
3.35 - 3.40 p.m.
Mr.

~~the Bradshaw~~

~~I wish that I'm sure you can think of ways to do it
A couple spring to my mind but the two really ways as to
answer that question?~~

~~Mr. Thomson: Are there any honest ways of
springing to your mind?~~

Mr. Bradshaw: Well, they would be perfectly honest apart from the fact that the agreement was that if the effective - true effective rate of interest was less than eight per cent that Hydro ~~was~~ was going to participate in the benefit. So that whatever method that was designed would of course would be a breach of that provision of the agreement. So, speaking to Mr. Thomson's point, ...

Mr. Thomson: It would be a ~~straight~~ fraud.

Mr. Bradshaw: Any of those things would be fraudulent but if Hydro wasn't participating in the saving in interest below eight per cent and if the arrangement, if, for some reason or other, the bank - the Swiss bank and Canada Square and whoever the ultimate lender was wanted to divide that up in to different places then we can interpose other companies and things but none of them would be straight ...

Mr. Renwick: Well, all - Mr. Chairman, this is precisely the problem. I was asking the witness to give us the benefit of his experience and the conclusion of the question that was already jumped in that if there was any way of dividing up the spread, it was fraudulent and I'm suggesting that there are any number of ways which would be considered as ~~legitimate~~ legitimate methods by which a spread could be divided up and still permit the ultimate lender to Hydro had the deal gone through in all good faith to have certified as to the effective interest rate.

I don't leave that beyond the ingenuity of the business community to be able to work out that arrangement. In other words, a legitimate finder's fee out of putting that deal together could be paid and somebody could participate in it,

August 1, 1973
3.35 - 3.40 p.m.
M R.

(Mr. Renwick)

not fraudulently at all. Is that not - my question ...

Mr. Bradshaw: A finder's fee - if the finder's fee is a legitimate finder's fee, it's an expense of Canada Square and the lender.

Mr. Renwick: Fees Switzerland 1.1 million - out of this ...

Mr. Allan: Mr. Renwick, wasn't that at a time when it was going to come directly?

Mr. Renwick: Yes, it may be.

Mr. Bradshaw: Did Mr. Moog give any evidence as to the rate of commission payable at Switzerland in connection with this matter? There is a fee payable to the lead bank and depending on the amount that was loaned.

Mr. Renwick: Well, let me try to get at it another way in response to the member for - Mr. Hodgson of York North: My concern and why the questions in my view have to be asked of yourself and other witnesses is to put together all of the circumstances in the summer of 1972. All that we have at the present time and we have no way of pulling it all together at this point in time is that there was immense activity during that time on the part of Canada Square; on the part of Hydro and to an extent - to the extent that government were involved on the part of some sensitivity about what was taking place during that time and I can't resolve it as yet. And one of the problems for us is to try to find out what took place.

Now, let me again try to stay away from the financial details of the matter and let me, having expressed it that way, let me express it another way. This committee, had it not been for counsel to the ~~committee would~~.

August 1, 1973
3.40-3.45 p.m.
M.P.

H - 1654 - 1

(Mr. Renwick)

~~and let me, having expressed it, that was let me express it
in the other way~~

~~This committee had not been for counsel to the~~
committee, would have no knowledge of any kind about the meeting
which took place in August of 1971. That was not information
which was forthcoming to this committee.

There is also no question that without the counsel for
the committee, having persisted, we would have no knowledge of
the subsequent communications with that bank and no knowledge of
the - what I take to be the final call for the time being,
August 7th, made from your office to that same bank.

Now put yourself in our position. We don't know, and
we would not have known, had it not been for counsel to the
committee, and put yourself - and I am saying this to others in
the room as well - put yourselves in our position of a situation
in which we have got to come to very clear conclusions about what
took place in the whole course of this transaction, and I think
you will appreciate the extreme difficulty, for whatever the
motivations, and everybody is entitled to their own motivations,
that have led to the attack on counsel for the committee; which
have led to the division of the committee, and which have raised
a number of what to us are hurdles in getting at the evidence

Now the cumulative effect of that has been to make it
extremely difficult. ~~I suppose to think that the committee under~~
extreme difficulty is doing very well, and I don't ask for us to
have the insulation of a judge sitting on the bench or anything
else; I rather enjoy the game. The fact of the matter is out
of all this travail we are beginning to get some inkling of what
we are after and what we are trying to find, and we have got to
have co-operation. I have the other point to make which is
that counsel in the room are obviously extremely upset that this
is not the straightforward adversary game where there is

August 1, 1973
9:40-10:45 p.m.
H.P.

H - 1654 - 2

(Mr. Renwick)

examination and then cross-examination and unless cross-examination destroys the credibility of the witness we have to take the precise words of ~~every~~ every witness as they are uttered from his mouth as being the gospel. We don't: It is very much a gentle - if I may say - inquisitorial method which is being used by counsel, and could have been a lot tougher and could have been a lot more sharply drawn.

We have - and I say this to my colleague from Lambton, I say ~~it~~ it to my colleague from Sarnia, who was quoted in the paper this morning as being worried about the committee -- I simply say that the committee as such is going to find an answer to these things and is going to come to a conclusion and we have got to have the co-operation.

Now I am hung up because I consider that you are not able to tell us, because of the assertion of privilege, all of the matters which are of knowledge to you, which might go a long way to clear up a lot of matters, that might go a long way to lead us up into other areas. I am not prepared to draw any conclusions from that, but I have the feeling that somehow or other it is in the interests of Hydro and it is in the interests of Canada Square, and it is certainly in the interests of this committee to have the problems that surround the period in June, July and August of 1972, cleared up and not left hanging. I don't know how to clear them up and I am in a quandary and as far as I am concerned the information which only counsel for this committee and nobody else has obtained for this committee, which is part of the chronology of that summer, would not otherwise have been available to us, and ~~therefore~~

Tape H - 1655 follows

Aug. 1/73
3:45-3:50 pm
PLG

(Mr. Renwick)

~~For this Committee, which is part of the chronology of that summer, would not otherwise have been available to us, and~~

I frankly am getting a fed up with any attempt, either to divide the committee, or to divide the counsel from the committee, or to divide some of the members of the committee from other members of the committee. Now that is quite a lecture to give Mr. Bradshaw because he is not in a position to do it, but I want ^{you} to know that I am prepared a to wait it through. As a matter of fact, I am going on ~~a~~ holiday for a couple of weeks, and I am taking those holidays, and my colleague Mr. Deans will be here and I am prepared to go along as long as anybody wants to in this committee. As far as I am concerned, I get the message quite clearly that the deal is on the shelf until we report. When we report, the deal will go on. I hope it goes on with expedition, and we are not prepared to take any nonsense that we are delaying anything in what we are doing here. Now if there is any way in which counsel for Canada Square can ~~ease~~ ease the problem, and ~~the~~ counsel for Hydro can ease the problem, or ~~there~~ other counsel can ease the problem, then I'd like to ~~to~~ know about it.

I want to get one other thing off my mind. Had Mr. McMurtry appeared today I would have simply at this point in time ~~and~~ have had to ask whether he was here as an interested citizen or whether he was here on a retained brief, because it is quite ~~and~~ obvious that the comments that were made in the press yesterday ~~has~~ have also destroyed the credibility of my colleagues on the committee. Now as far as I am concerned, I will conduct all of the business of the committee in public, and I will make as many stump speeches as are required, and I will counter all of the arguments, ^{But} I want you to know that I am not satisfied that we ~~have~~ have the evidence to make the conclusions about the period June, July and August of 1972; ^{we} ~~we~~ are not in a position to make conclusions about the period November, December, 1972; ⁱⁿ ~~in~~ my view, we have not even yet located the person who made the statement that precipitated this

Aug. 1/73
3:45-3:50 pm
PLG

(Mr. Renwick)

select committee, and which was reported in the Globe and Mail on April 30. ~~Those~~ Those words prima facie are words of threat. They are subject to interpretations that would destroy any intimation of threat, but in my judgment on the evidence we haven't found that person.

Now we have an immense amount of work to do and we have to do it. We didn't create the problem, as I understand it, and when the committee wraps up its affairs, we are going to have to say that either the government was at fault, or the government was not at fault, and that is irrespective of what views we may have about the way in which the internal affairs of Hydro in this connection ~~were~~ were managed. Now I urge the cooperation of counsel for all parties to try and assist us, because otherwise we will be here indefinitely. ~~I~~ I am not interested in being here indefinitely but if that is what it requires, we will be here.

Mr. Bullbrook: Well, you are worried about the committee too, I take it, with great justification.

Mr. Renwick: Yes, ~~except~~ except I think we have been doing extremely well, and as I say, it would have been very simple ~~for~~ for counsel to have been less diligent and less meticulous and less careful about what was being done, ~~and we would never have known about this meeting at the Bank in Switzerland in August of 1971, and somebody can say it wasn't relevant. We would never have known about the course of communications.~~

Mr. Bullbrook: We wouldn't have known about the interest ~~rate~~ rate, Mr. Renwick.

Mr. Renwick: We would never have known about the letter of July 12 from Mr. Smith to Mr. Cronyn, and we still don't know who the hell, in my judgment, uttered the words of threat that caused us to be sitting here. We have got an immense amount of work to do and I want you to know that a parliamentary committee, regardless of its membership, has got infinite time and infinite patience, and we can outwait all of the counsel in the

H 1655-3

Aug. 1/73
3:45-3:50 pm
PLG

(Mr. Renwick)

room, we can ~~we~~ outwait everybody. I sit on a select committee on corporation law. It was appointed in the ~~late~~ initial instance in 1964 and we are still going strong and we have got probably another 10 years work. ~~It is a very good thing to have a select committee on corporation law.~~

Tape H 1656 follows

August 1st, 1973

3.50 - 3.55 pm

H 1656 - 1

AA

(Mr. Renwick)

~~and we are still going saying we have not reached that
ten years work and~~

Mr. Walker: So has this committee.

Mr. Renwick: The institution is permanent and we are going to be here until we can draw the conclusions which totally exonerate the government, because we are not going to be able to say, "Well, on the one hand, this evidence came through this way and on the other hand, and we in this committee if we just had another couple of years could have come to a final conclusion about it." We are not going to have that luxury and we haven't got that luxury.

Mr. Chairman: ^{Mr. Finlayson, you} ~~have made a positive indication~~ you'd like to ~~say something~~.

Mr. Renwick: All that means, Mr. Chairman, is that I am upset.

Mr. Chairman: Well, all right. I am glad to have your ~~comments~~.

Mr. Walker: What was your question?

Mr. Chairman: I am glad to have your comments on it.

Mr. Finlayson: Just on a point of privilege, Mr. Chairman, I want to make it perfectly clear, and I think Mr. Shibley did, that I was the one that produced the controversial file to Mr. Shibley. And I produced it voluntarily to him. I showed it to him. It is true, I said I didn't think it was relevant and I didn't think it should be made public, but I don't want there to be any suggestion that I was holding anything back, because I showed it to Mr. Shibley and if I had been anything else, I wouldn't have done it, but I did it because I felt that it was my responsibility to committee counsel to do it.

(Mr. Finlayson)

I also warn ~~him~~^{ed him} and you might keep this in mind, that "you are going down the biggest rabbit warren you ever thought of, if you go into this thing, because it has got nothing to do with the case." I think after all these weeks I've been justified.

Mr. Chairman: Well, thanks, Mr. Finlayson.

It's a little bit difficult, however, for members of the committee to come to conclusions on evidence that Mr. Shibley has in his possession that he may know about but which he can't disclose to us and help us to come to our conclusions. And, in some cases, that's been what we have been up against. I agree with what Mr. Renwick has said. As far as Mr. Shibley getting ~~information~~ information of a volunteer nature, he has received a great deal of information ~~in~~ⁱⁿ this line, but ~~many~~ much of the information that he has received and which the committee has thought relevant, he has had to scrape and dig pretty hard for it, and because of that, it has lengthened these procedures a great deal.

And with regard to my remarks to Mr. Bradshaw, if Mr. Shibley has anything more to ask him, I would like ~~him~~^{to do so} ~~for it~~^{to do so} ~~any other member~~^{him} but I do believe that Mr. Bradshaw has been put in a very difficult position of being cross-examined almost ~~well~~, I think I will leave it cross-examined ~~when~~^{from} when he is trying to keep away ~~breaking~~ a trust or a ~~trust~~ trust is not the word I want ~~to use~~.

Mr. Henderson: Privilege.

~~Mr. Renwick: A confidence.~~

Mr. Chairman: Well, privilege; it is the opposite almost to privilege. He's trying to keep away from breaking that confidence that he has not been released from, and I feel ~~that~~ and I still feel that we are being a little hard on Mr. Bradshaw.

Now having said that, however, I don't want

August 1st, 1973

3.50 - 3.55 pm

H 1658 - 3

AA

(Mr. Chairman)

to I would agree I don't think there is much point in pursuing this, but if there are any other points that we can pursue here, now is our time, because I would like to release Mr. Bradshaw today. Mr. Newman, did you have anything else?

Mr. W. Newman: At the rate of getting in trouble, Mr. Chairman, Mr. Renwick put a proposition to Mr. Bradshaw and I would just like to ask Mr. Bradshaw, really confirming and maybe adding to a little bit of evidence that he gave yesterday, I think he indicated that company "X" yesterday did not borrow money. I think you talked about, and the words came out, "Premium income". Do you think that company "X" would tolerate any sort of a wrap around or put-through deal, to the best of your own knowledge and ability?

Mr. Bradshaw: A wrap around deal?

Mr. W. Newman: Or a put-through deal.

Mr. Bradshaw: Well, you see, they are two different things.

Mr. W. Newman: All right then, ~~is it~~ a put-through deal with Swiss money.

Mr. Bradshaw: I don't think that company "X" would be prepared to borrow money in Switzerland and re-loan it in Canada for the sake of making a quarter of a point or something like that. However, company "X" might have, as was suggested for some Canadian institutions, which would include perhaps insurance companies, might have been prepared to lend beside it, that is if \$20 million was coming from Switzerland, they might be prepared to lend another \$25 million, whatever the amount was, beside it, sharing the security, and at the end of the 15 years, being obliged to repay the Swiss money.

H 1659 - 1 follows

August 1, 1973
3:55 - 4:00 p.m.
M.R.

(Mr. Bradshaw)

~~...the ... it ... the ...~~
~~... the end of 15 years ...~~
money and taking up the whole loan at that point after it had been reduced by 15 years of amortization payments.

I think it is extremely doubtful that they would be prepared -- company X, or any large insurance company would be prepared to borrow money in Switzerland to re-~~take~~ loan in the Canadian or U.S. market.

Mr. Chairman: Any other questions? Mr. Bradshaw, thank you.

Mr. Bradshaw: I'm sorry, I just want to -- one thing Mr. Shibley asked me to check out at lunch hour and I really ~~couldn't~~

Mr. Shibley: I'm not through, John.

Mr. Chairman: Oh, I'm sorry. I was including you on that too. Oh, by all means, Mr. Shibley.

Mr. Shibley: Unless you want me to ~~say~~ be through.

Mr. Chairman: No, no, I don't want you to be through if there is anything relevant you have to ask but at the same time I would ask you to keep away from an intense cross-examination of Mr. Bradshaw when he's under the restrictions that he is.

Mr. Shibley: Well, there is one point I want to make clear: It had to do with the sequence of the production of the file. I asked for all files that were relevant from McCarthy and McCarthy on May 24. I received certain files. The file in question was not among them. On July 16 I conducted an interview with Mr. Moog and Mr. -- I asked certain questions and thereafter Mr. Finlayson did himself produce the file to me. The precise nature of the exchange that took place should be the subject of Mr. Moog's testimony. I want nothing more said about it at this time.

I think, I want it clear that my own view is that

August 1, 1973
3.55 - 4.00 p.m.
M R

(Mr. Shibley)

that is a matter for testimony. The chronology is, as I stated it and of course it had to be Mr. Finlayson himself who disclosed to me the existence of the file because I did not know of it until that time. The particular circumstances leading to that, I think, should be left to Mr. Moog's evidence.

Mr. Finlayson: What are you going to do,

Mr. Shibley, if Mr. Moog disagrees with your version of the manner in which the file was produced, because you have already intimated to me that that is going to happen?

Mr. Shibley: Well, Mr. Finlayson, let's not get into it at this time. I just --

Mr. Finlayson: Well, we're going to get into it sooner or later and I'm just very much concerned about your position as counsel here if you're going to start cross-examining my client about a conversation he had with you in my presence.

Mr. Shibley: Mr. Finlayson, I'm just going to let Mr. Moog say what he has to say and we'll take it from there. Let's - using your language -

Mr. Finlayson: I'm only warning you, Mr. Shibley, that you may very well find yourself disqualified from carrying on as counsel here because if you are going to take issue --

Mr. Shibley: Mr. Finlayson --

Mr. Finlayson: -- if you are going to take issue --

Mr. Shibley: -- let's take it one day at a time.

Mr. Finlayson: Please may I be heard? If you, as counsel, are going to take issue with what a witness said to you and that witness denies that your version is correct, then you have no other responsibility but to go into the box and testify yourself and once you've done that, of course, you can no longer carry on as counsel.

August 1, 1973
3.55 - 4.00 p.m.

MR

Mr. Chairman: Well, we'll decide that,

Mr. Finlayson, when the

Mr. R. G. Hodgson: It's entirely within the committee.

Mr. Shibley: It seems that the whole

Mr. Chairman: It's entirely within the

Mr. Shibley: thrust of the afternoon's

conversation, Mr. Chairman, seems to be directed at the manner in which I am carrying on my inquiry and the presentation of evidence and the restraints that should be imposed upon me in that respect.

I quite recognize that the persistence ^{with} which I pursue investigation and the introduction of evidence may not meet with general acceptance because it is always difficult for someone whoever is affected by that particular evidence. I am going to say it once again; I do not intend to be intimidated in any manner by anyone in respect of the fulfillment of my obligations to this committee. And I think that it's time for everyone to understand that. It's just not going to happen. If I wanted to back away from my responsibilities in respect of this committee, I would have

done so

August 1, 1973
4.00-4.05 p.m.
M.F.

H - 1658 - 1

(Mr. Shibley)

~~not allow to happen. I am not responsible for what I would have~~
done so long ago.

If it has not penetrated yet, I would trust it is coming through loud and clear as each day progresses. The only thing that is going to stop me from putting the whole of the evidence before this committee is a decision by this committee itself to shut off areas of inquiry. ^{anything} I am not ~~anything~~ more than the servant of the committee. When the committee tells me I am to stop, then it accepts the responsibility for doing so and I am quite prepared to close my brief on that area of the evidence. If the committee considers that I should stop altogether, it can fire me, and I can tell you at any given time that I consider that I am being precluded from fulfilling my responsibilities to this committee, I, myself, will resign and the responsibility then will fall to somebody else.

So let's make it clear once and for all. I sit here listening to this kind of exchange. I have received a measure of abuse from counsel who are supposed to be responsible, one in particular, and I accept that as part of my job, I suppose, but there is a limit to what anyone should be expected to accept in these circumstances. I only want to assure everyone in this room that when I embark upon a line of questioning I do so in the most conscientious manner that I know, and with as much ~~conscientious~~ ^{conscientious} about the reputation, integrity and consequences to other persons as anyone in this room. No one here will ever know the mental exercise that I have undertaken over the course of the last 10 weeks.

Now I say that while simultaneously expressing the determination to do my job. If this committee wants me to stop, tell me.

Mr. Chairman: No, I think we would like you to get on

August 1, 1973
4.00-4.05 p.m.
M.F.

H - 165 8- 2

(Mr. Chairman)

with Mr. Bradshaw, if you would because I would like in fairness to him to release him today.

Mr. Shibley: Mr. Bradshaw, I asked you to provide for me a chronology and I think perhaps you might have done that. Can you give it to us now?

Mr. Bradshaw: I think you asked me two things, Mr. Shibley. The first one is easy. You asked me, I believe, whether I had ever discussed the Swiss financing on a non-privileged occasion other than the two meetings with Mr. Johnson on October 25th and November 11th, and you asked me whether right up to date that you were given the file by Mr. Finlayson, and I have gone back over my own records, both the dockets and my own diary, and there is no indication that I ever discussed that with anyone other than on a privileged occasion, other than the ones I have mentioned already.

Now the other question you asked me was to check and find out when the first privileged occasion was in which I discussed the Hydro deal with representatives of Canada Square, and I am going to have to be a little indefinite here because

Tape H - 1659 follows

H-1659-1

August 1, 1973
4:05 - 4:10 p.m.
B.G.

(Mr. Bradshaw)

~~... and I'm going to have to be here indefinite~~ here because again I am relying completely on the time records. I have no notes of meetings. I have told you about all the ~~meetings~~ ^{meetings} in which I had notes of meetings.

I had ~~these meetings~~ and a telephone call and three meetings between the beginning of June 1971 and the end of August. The specific dates, ^{they} go from the last day of June ^{with} the telephone call and then there was a meeting the first part of July and a meeting at the very end of August.

I don't know whether we discussed the possibility of the Hydro of the proposal ^{or} of a deal with Hydro at those meetings or not. If we did it wasn't ^{of} ^{important} enough that I made ^{any} a note to take any action or do anything.

I mentioned this morning a meeting on October 4th that I had with Mr. Coles and my partner, John Wright, that I thought might have dealt with the Hydro transaction and financing. Mr. Coles tells me, and I think that I agree with him in this, that it was dealing with the financing of 2180 Yonge Street, the new Transamerica Building, because that ~~was~~ was the matter which John Wright ~~there~~ was involved with and we were working on the agreements of that at the time.

Mr. Shibley: I'd like to produce to you, Mr. Bradshaw, what is Exhibit 154 in these proceedings. Do you recognize that document?

Mr. Finlayson: 154?

Mr. Shibley: 154. It's a memorandum with the, it's not on the photocopy unfortunately, it didn't come through, but ~~there~~ there is a note on the top right-hand corner, I might alert you to this, Mr. Bradshaw, it says "Draft, March 28, 1972, JAB".

Mr. Thomson: ^{Can we} ~~Don't you~~ have another copy, please? ~~It's in~~ ^{over} the book that I was looking ~~in~~ ^{over} his shoulder, ~~but it~~ doesn't have that.

Mr. Shibley: No, neither does mine, Claude, I had to get it from Hydro. But, Mr. Bradshaw, also, I want your

August 1, 1973
4:05 - 4:10 p.m.
B.G.

(Mr. Shibley)

information to be complete as to this. In Hansard at page 458-2, the following questions and answers were put. Mr. Shibley: I am told that the original of this document has on one upper corner of it, the words--and it doesn't come through even on my copy, 'Draft, March 28, 1972, JAB'. Have your people within Hydro yet identified who JAB is? Mr. Candy: Yes, JAB is Jim Bradshaw who is the lawyer for Canada Square; and the next initials are 'KRC,' who is K.R. Cooper. Mr. Shibley: Who is the Mr. Candy; Architect, Mr. Shibley: For Canada Square? Mr. Candy: Yes, that is correct.

"Mr. Shibley: Have you ascertained that this document ~~was~~ was drafted by these gentlemen?

"Mr. Candy: Well, in the light of this enquiry, we looked at this the other night and we were ~~was~~ trying to decide what -- and that's my understanding.

And then I asked -

"Mr. Shibley: I take it that Hydro received this document on or about March 28, 1972. Is that correct?

"Mr. Candy: I don't really know, Mr. Shibley

"Mr. Shibley: Do you know the circumstances surrounding the ~~creation of this document?~~ creation of this document?

"Mr. Candy: No, I can't say I do.

I ~~think~~ think we can leave it at that.

Now, Mr. Bradshaw, I just want to know whether in fact this document was drafted by you or whether it ~~was~~ was drafted by someone else.

Mr. Bradshaw: The - excuse me, may I speak to ~~some~~ Claude about this?

Mr. Shibley: Surely.

Mr. Bradshaw: Yes, I was involved in drafting this document. There was a lot, you know, there, ~~you~~ changed and ~~things~~ things.

(Tape H-1660 follows)

Aug. 1/73
4:10-4:15 pm
PLG

(Mr. Bradshaw)

~~in grasping the document and the words and things~~
and things marked on it that I know nothing about but I was on a privileged ~~document~~ ⁸⁸⁰⁸¹¹⁰⁰ I was given instructions in connection with putting the words down and I did that.

Mr. Shibley: All right. And then you were given those instructions to draft this and was it then provided to Ontario Hydro for its purposes?

Mr. Bradshaw: I didn't provide it to Ontario Hydro.

Mr. Shibley: You didn't do that.

Mr. Bradshaw: I provided it to those ^{WHO} ~~had~~ had requested ^{ME TO} ~~the document~~.

Mr. Shibley: I should tell you it is a document which was produced to me out of Hydro's file, Mr. Bradshaw, but for the moment then, you don't know how it got to Hydro?

Mr. Bradshaw: I have no idea.

Mr. Shibley: All right. Now then, with respect to the content of this document Mr. Bradshaw, you mentioned that there are some handwritten notes and I notice that also, can you help identify that portion of the document which was drafted by you and when that part which was authored by someone other than yourself?

Mr. Bradshaw: Mr. Shibley, from my records, it appears that the typewritten part, without the ~~some~~ interlineations, was probably typed up by my secretary. It is not the version that I have. I suspect what it is is a first ^{draft} ~~stage~~ of the document. My version of it has minor changes, but I don't know what happened. I supplied the first draft to Canada Square and I supplied the second draft.

Mr. Shibley: I see. This then isn't a verbatim copy of your draft, but it is substantially the same?

Mr. Bradshaw: No. I believe this was typed in our office, but I don't have anything in my files to check it against because I revised it.

Mr. Shibley: Now then the typed portion is substantially in the form that you prepared. Is that the situation?

Aug. 1/73
4:10-4:15 pm
PLG

Mr. Bradshaw: I think the typed version is the
former. I PREPARED.

Mr. Shibley: All right. Then can you help us as
to whose handwriting sets forth the handwritten notes on that
document?

Mr. Bradshaw: This again is a very poor copy. I
can't be sure whose handwriting that is. ^{IS IT WORTH} ~~IT IS WORTH~~
worth getting a handwriting expert?

Mr. Shibley: It is not your own eh?

Mr. Bradshaw: No. No. I didn't write ~~it~~ on this.

~~Mr. Shibley: I am not sure if it is worth getting a handwriting expert.~~
~~Document is signed by Mr. Bradshaw. I am not sure if it is worth getting a handwriting expert.~~
~~It is not my own handwriting.~~

Tape H 1661 follows

August 1, 1973
4.25 - 4.20 p.m.

(Mr. Bradshaw)

~~No, I didn't write on this one.~~

Mr. Shibley: If I had got the original of this document it might be of help. Can somebody help us now as to whose handwriting that is?

Mr. Finlayson: Mr. Chairman, without being too specific, some of the handwriting is Mr. Moog's and some is Mr. Cole's.

Mr. Shibley: All right.

Mr. Finlayson: And some is Mr. Cooper's.

Mr. Shibley: Do you have ~~something~~ something ~~document~~

Mr. Bullbrook: ^{No} ~~Do~~ I look poised?

Mr. Shibley: Yes, you did, you look - yes, you did.

Mr. Bullbrook: ^{Yes} ~~Could you~~ help me with one thing?

My recollection doesn't go that far back. This was a document found in the files of Ontario Hydro and produced to you through Ontario Hydro?

Mr. Shibley: It was among the documents produced to me by Ontario Hydro, yes.

Mr. Bullbrook: I assumed that. I just wanted to make it clear.

Mr. Finlayson: I didn't hear Mr. Bullbrook.

Mr. Shibley: He said he just wanted to make that clear.

Mr. Bullbrook: I just wanted to make clear that my recollection was correct that this was a document found in the files or produced by Ontario Hydro, to our counsel. I assumed it was and it's clear now.

Mr. Shibley: Well, now, Mr. Bradshaw, have you any comment, or can you make any comment, as to why a memorandum outlining things like "integrated design team," concept of a tightly knit development team, "Design team for extracting the design of the Hydro to be experienced team," addition result of experience in working with large users of office space the team has designed a building using modern planning

August 1, 1973
4.15 - 4.20 p.m.
M.R.

(Mr. Shibley)

concepts and then on paragraph 11. "In the past, Canada Square team has, through its U.S. and European connections, been able to borrow mon~~ies~~^ys to finance their projects at an extremely favourable rates, often equivalent to the rate at which the government is borrowing at the time; ~~we~~^{they} are able to negotiate better terms, avoid payment of a commission, discount or other fee... It should be pointed out that Canada Square has a verbal commitment from a group of European banks...", I'm looking at Page 5, "...to lend \$20 million for the Ontario Hydro building at six and a half per cent."

Now, just stopping there: Does that truly express the information that you had in a document which was provided to Hydro as at March 28, 1972?

Mr. Bradshaw: Mr. Shibley, I think the position I have to take on this ^{was} that I would be breaching a confidence if I were to tell you what went on - how this became - how the information was conveyed to me and how I ~~under~~^{understand}.

Mr. Shibley: Mr. Bradshaw, I'd like to help you on that, because here we have a document that you've prepared and it's been published, by your client or someone, to Hydro. And it sets out information which, although it might have been confidential as at the time it was given to you for incorporation into the document, was published to Hydro. Now, I really fail to understand how this can be encompassed by any kind of privilege.

Mr. Bradshaw: Well, this document --

Mr. Thomson: Mr. Shibley, excuse me, the - I agree with you. The document is no longer privileged. It has been published by the client.

Mr. Shibley: Yes.

Mr. Thomson: What remains privileged, however, would be the substance of any conversation between Mr. Bradshaw and his clients dealing with what his clients may or may not have said to him was the purpose of the document, what they were going to do with the document, what they in fact did with

August 1, 1973
4.15 - 4.20 p.m.
M.R.

(Mr. Thomson)

the document, what the document was designed to achieve
or things of that kind. Those matters would be confidential.
and privileged.

Mr. Shibley: Oh, no, that's - Mr. Thomson,

I didn't ask that question. What I said ~~was~~

~~Mr. Thomson: I was not trying to ask~~

~~I thought you did. Otherwise I didn't have interest.~~

~~Sorry.~~

H-1662 to follow

H - 1662 - 1

1M

Mr. Thomson: I am not trying to interfere, I -----

Mr. Shibley: I realize you are not.

Mr. Thomson: I thought you did, otherwise I wouldn't have interjected, I am sorry.

Mr. Shibley: No, and I had hoped that through this document which has been published by Canada Square to Ontario Hydro, even though prepared by its counsel, would permit counsel, without violating any privilege, to indicate to this committee what is meant by the statement. In this connection it should be pointed out that Canada Square has a verbal commitment from a group of European banks to ~~lend~~ lend \$20 million for the Ontario Hydro building at six and a half per cent."

Mr. Thomson: I think that the document having been disclosed publicly, I think you are entitled to ask Mr. Bradshaw, who is the author, what he understood those words to mean.

Mr. Shibley: Exactly, that is all I want. Thank you, Mr. Thomson.

Mr. Thomson: Well, ^{else} that is the position I take anyway and nobody is objecting so I am not going to invite more arguments from my friend on my left.

Mr. Bullbrook: You mean Mr. Genest?

Mr. Thomson: No, the friend on my right.

Mr. Bradshaw: Mr. Finlayson felt let down.

Mr. Bradshaw: You want me to interpret that do you, Mr. Shibley?

Mr. Shibley: No, I want to know, well, maybe your own counsel can put it to you.

Mr. Thomson: I think what Mr. Shibley wants you to do is to interpret it because I do not think that Mr. Shibley wants you to tell him what anyone else may have told you, which was the reason for you to write those things down there, ^{because} that would be privileged. The difficulty I see with the question is that the words themselves seem clear enough, and I think that is probably what Mr. Bradshaw is puzzling about, ^{it is as} to what he is

August 1, 1973
4.20-4.25 p.m.
M.F.

H - 1662 = 2

(Mr. Thomson)

supposed to answer. Unless he is supposed to talk ~~about~~ ^{referred to in the} about the conversation that he had with whoever ~~was~~ ^{Document}

Mr. Shibley: What I want to know is simply, was that a true statement when he set it out in this document?

Mr. Bradshaw: Are you asking me to vouch for the veracity of this document?

Mr. Shibley: No, I am asking you whether the statement that you made in this document, which was published to Hydro, "Canada Square has a verbal commitment from a group of European banks to lend \$20 million for the Ontario Hydro building at six and a half per cent" ~~is~~

Mr. Bradshaw: Surely my opinion of whether that was true or false would be based upon privileged communications, Mr. Shibley?

Mr. Shibley: Well, Mr. Chairman, I take the position really that there is no privilege attached to this. This document was published and I think my friends on the other side know that ~~and therefore~~ if ever there was a privilege attached, once you waive it in part even, you may well be ~~asked~~ ^{taken} to waive it in whole. But I am not asking for anything more than one particular portion of it, and what is bothering me still - I will tell you, Mr. Bradshaw, so everyone knows ^{is} that on March 27, exhibit 64, Mr. Candy was sent on a fact-finding expedition as to four things, and ~~one~~ the first one was what general design philosophy should be recommended for the new building and the ⁵reasons for it, and it struck me that your memorandum is information provided along that line in terms of design philosophy.

Your memorandum starts off "integrated design team, etc."

The second thing Mr. Candy was asked to do is to find out about the advantages and disadvantages of adopting a public tendering approach against a single developer approach, and again your memorandum seems to cover some of that content.

And then he was also asked on March 27 to go out and

August 1, 1973
4.20-4.25 p.m.
M.F.

H - 1662 - 3

(Mr. Shibley)

find out, about -- provide an outline on the screening of
potential developers and reasons for eventual selection of
those currently under consideration,

Tape H - 1663 follows

August 1st, 1973

4.25 @ 4.30 pm

H 1663 - 1

AA

(Mr. Shibley)

~~provide an outline on the schedule of potential developers~~
~~and reasons for eventual selection of those currently~~
under consideration and fourth, what use can be made of the present architectural drawings?

And then on the same memorandum, he was asked as for Canada Square, "How secure are the financing" and "What type of financing are they proposing."

It struck me that part of the response that Mr. Candy was soliciting or instructed to enquire into was provided by your memorandum and maybe you can help me as to that. Did you have a conversation with MR. Candy about this memorandum?

Mr. Bradshaw: Mr. Shibley, I didn't meet or talk to Mr. Candy.

Mr. Shibley: OK. So that if - we'll leave it at that. You didn't talk to Candy. Your instructions as to this came from your client. Did you ever see a copy of what is exhibit 64, on or about the time that you were ~~preparing~~ preparing exhibit 154. That's the exhibit that I have been referring to wherein Mr. Candy received his instructions.

Mr. Bradshaw: As far as I am aware, this is the first time I have seen this.

Mr. Shibley: Yes. I see.

Mr. Shibley: Now, just getting back to page 5 of the memorandum - and I might tell you, Mr. Bradshaw again to assist you - Mr. Candy also reported back that the funding was secure as to the Swiss portion of the financing. Now, I am concerned to know . . .

Mr. Genest: Mr. Shibley, I am sorry to interrupt.

Mr. Shibley: Surely.

Mr. Genest: Could I have the exhibit number of the memorandum that is being discussed.

Mr. Shibley: Well the memorandum, Mr. Genest,

August 1st, 1973

4.25 - 4.30 pm

H 1663 - 2

AA

(Mr. Shibley)

is exhibit 64, March 27. It's from Mr. Mink to MR. Candy instructing him to go out and find out about . . .

Mr. Genest: I have that.

Mr. Shibley: And then the memorandum that I'm dealing with that was ~~prepared~~ prepared by Mr. Bradshaw as exhibit 154 . . .

Mr. Genest: Thank you very much.

Mr. Thomson: Mr. Chairman, the only way that Mr. Bradshaw can answer questions dealing with whether or not statements in that memorandum are true or false, is to get involved in disclosing to this committee what it was he was told by persons at the time that there was a meeting between the solicitor and his clients. That's the problem that we now find ourselves in. And I don't argue with Mr. Shibley at all that the document is not privileged. I agree with him in that. I agree with him entirely. That does not relieve the problem of the confidence involved in the question of what did the clients tell Mr. Bradshaw when he prepared the memorandum.

Mr. Shibley: Well, may I ask him the question in an indirect way then. Mr. Bradshaw, when you set your thoughts to writing, as you have, in this document, I presume, as I presume about everything that you say, that the expression of your thoughts in writing are what you believe to be the truth.

MR. Bullbrook: There can't be any privilege about that one.

Mr. Bradshaw: No. That's right. My thoughts are what I believe to be the truth. But can I just add this that obviously, in connection with the ~~preparation~~ preparation of this document, I was receiving instructions from my client.

Mr. Shibley: I realize ~~and~~ that and I am not going to ask you what those instructions are because they

August 1st, 1973

4.25 - 4.30 pm

H 1663 - 3

AA

(Mr. Shibley)

are very obvious from reading the document.

Mr. Bradshaw: And I hadn't seen Mr. Candy's memor nor discussed it with him.

Mr. Shibley: All right. Now, then, I would like to turn to page 7 with you and . . .

Mr. R. G. Hodgson: Except, Mr. Shibley, MR. Bradshaw did not give the document to Mr. Candy personally.

Mr. Shibley: No, it was - we will have to find out how it was conveyed, but it does emanate out of the Hydro files that were produced to me. On page . . .

Mr. W. Newman: How about that recess.

Mr. Shibley: Yes, I agree with you.

Mr. Chairman: All right. I am losing track of time. I am enjoying this so much. It is 4.30. We will recess for 15 minutes.

*The recess will be 15 minutes
4.30 - 4.45 pm*

H 1664 - 1 follows

August 1, 1973
4:50 - 4:55 p.m.
B.G.

Mr. Chairman: I'd like to call the committee to order.
I see one of them here; ~~and~~ here's two, three, four, five.

I think Mr. Shibley is ready to proceed now so I would ask you to take your ~~seats~~ places and I call the meeting to order.

Mr. Shibley: I ~~was~~ ^{be} asked that the witness produced the document which is styled, "Draft prepared by E. Houser, September 15, 1972", which is an agreement between Hydro and Canada Square with a face page on it, with a notation. I might tell you, Mr. Bradshaw, that this document ~~was~~ was produced out of the files of Canada Square that were produced to me and I asked ~~9~~.
Mr. Chairman: well, first of all, have you seen this document before?

Mr. Bradshaw: With the face page on it?

Mr. Shibley: Well, let's say, just the draft itself.

Mr. Bradshaw: Yes, I've seen the draft of the Houser agreement that Mr. ~~Shibley~~ prepared.

Mr. Shibley: Yes; I would like the whole of that document to ~~be made~~ the next exhibit.

Mr. Bradshaw: Well, wait a minute: I've never seen the one with ~~this~~ face page on it.

Mr. Shibley: All right, well, is there any objection to the whole of the document being made an exhibit at this time?

Mr. Finlayson: It isn't really a face page. It is the way you have ~~made~~ ^x xeroxed it. That's just a little note that was on the ~~face~~.

Mr. Shibley: It was attached to this document.

Mr. Finlayson: It was attached to it.

Mr. Shibley: Right.

Mr. Finlayson: But it's not a ~~face~~ ^{facing} page.

Mr. Shibley: I realize that. You ~~have~~ have no objection to that.

Mr. Finlayson: Well, the Chairman has made a ruling on this file.

Mr. Shibley: I realize that.

Mr. Finlayson: And I am not going to argue about it.

H-1664-2

August 1, 1973
4:50 - 4:55 p.m.
B.G.

Mr. Shibley: Okay; so can we have the whole document made the next exhibit please?

Mr. Chairman: That will be Exhibit 196. I am not even certain of these numbers any more. All right, Mr. Hodgson? ~~I ^{used to} say~~ that with some degree of certainty but I'm -

~~_____~~

Mr. Shibley: Now, Mr. Bradshaw, what interests me about this document is that the notation on the first page that was attached to the draft ~~of~~ ^{of Houser's} Mr. ~~Houser~~ says, "Keep as evidence of Elmer's (I take that to be Elmer Houser) agreeing to the Province's guarantee. Page 11." And then if you turn to page 11 of the ~~the~~ draft document, you will note that in the top paragraph it says, "The lease shall be ~~executed~~ executed and delivered by ~~the~~ Ontario Hydro and Canada Square, and by Her ~~Majesty~~ Majesty in the right of the Province of Ontario as guarantor of the obligations of Ontario Hydro thereunder, prior to the date upon which Ontario Hydro takes possession of the building, and the Hydro lands and the Metro lands if made available." And just again, to make the document, or place it in context, I remind the members of the committee that there is another document in the Canada Square material; just scribbled notes, you haven't got it yet, but it was the one about which I was asking earlier; October 1, Treasury Board, and I don't know that there is any connection, ~~let~~ ^{let} me make that clear at the outset, but I'd like to know what this is all about in terms of a draft prepared by ~~counsel for Hydro on...~~

(Tape H-1665 follows)

H-1664-2

August 1, 1973
4:50 - 4:55 p.m.
B.G.

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(TApe H-1665 follows)

August 1, 1973
4:50 - 4:55 p.m.
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H-1664-2

August 1, 1973
4:50 - 4:55 p.m.
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(TApe H-1665 follows)

H-1664-2

August 1, 1973
4:50 - 4:55 p.m.
B.G.

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(TApe H-1665 follows)

August 1, 1973
4.55-5.00 p.m.
M.F.

H - 1665 - 1

(Mr. Shibley)

~~know that this is all about it, and it was prepared for~~
counsel for Hydro on September 15, 1972, incorporating provisions for a guarantee by the province of Ontario and a notation made by someone that this document should be preserved as ~~evidence~~ evidence of Elmer's agreeing to the province's guarantee. Can you help this committee as to what this is all about?

Mr. Bradshaw: At the time that this document was prepared by Mr. Houser, we ~~were~~ had started negotiations for the agreement, and the negotiations started with, as I have testified, ~~with~~ my receiving instructions from Coles, Moog and Candy, and quite often drafting an agreement.

I provided that agreement to Canada Square ^{the} draft of the agreement to Canada Square ^{and} my understanding was that they distributed it, because on the 7th of September when representatives of Canada Square and I met with Mr. Houser, who as you know is Jim McCallum's partner, and who was doing the soliciting, I guess you might say, on this transaction ~~was~~

Mr. Genest: You'd better explain that.

Mr. Bradshaw: I guess it was the soliciting. He had more than a few comments to make on my draft and at the end of the meeting we agreed that he would redraft the agreement, the main agreement, and I became responsible for starting the schedules, particularly the ground lease which was critical at the moment ^{at} at that point.

This draft, then, is Mr. Houser's response to my draft, plus our discussions. My draft included a provision, which I had put in, and in accordance with instructions I had received at this meeting in August, that the province would be guaranteeing the lease payments as it guaranteed all other Hydro borrowing. Now do you want me to ~~say~~ I think that is as far as I can go without a little more prodding.

August 1st, 1973

5 - 5.05 pm

H 1666 - 1

AA

(Mr. Shibley)

~~And I take it that... well some of the discussions between~~
yourself and Mr. Houser wherein you actually reviewed, clause
by clause, the content of your initial draft?

Mr. Bradshaw: Yes, Mr. Shibley.

Mr. Shibley: And included in those discussions
would be the provision in paragraph 27, which incorporates the
provision on page 11 for the guarantee of the province. Is
that correct?

Mr. Bradshaw: Yes, we discussed that.

Mr. Shibley: So that can we take it that as
at September 15, 1972, from the discussions that you had with
Mr. Houser and the review of the document - of the draft
documents, in particular this document, that it was your
common understanding at that time that the guarantee of the
province was to be provided?

Mr. Bradshaw: Yes.

Mr. Renwick: Mr. Chairman, would counsel help
me for a moment. This is the first time that we have had any
indication about the guarantee by the province of Ontario.
Is that correct?

Mr. Shibley: That is correct, Mr. Renwick.
And it's a new element and I was just going on with the witness
and ask whether the ultimate documentation incorporates any
such guarantee.

Mr. Bradshaw: No no. The agreements that have
been filed don't have the guarantee of the province.

Mr. Genest: Mr. Chairman. Before you ~~embark~~
embark upon that whole series of questions based on this hypothesis,
I think it would be wise to have the matter cleared from Hydro's
point. Mr. McCallum has got information on that matter.

Mr. Shibley: All right.

Mr. Genest: . . . that is quite pertinent.

Mr. Shibley: Surely.

August 1st, 1973

5 - 5.05 pm

H 1666 - 2

AA

(Mr. McBradshaw)

Mr. Bradshaw: Do you want to sit here?

Mr. McCallum: I'll have my day. I don't

want to run at it now.

Mr. Chairman: Now, Mr. McCallum.

Mr. McCallum: I don't want to get a head-start. I don't want to anticipate anything.

Mr. Chairman, Mr. Shibley has said that as at September 15th, "it was your common understanding that the guarantee of the province was to be provided" and the witness ~~has~~ answered "yes." I want to tell you that Mr. Bradshaw was trying something on in his draft and Mr. Houser who had not, at that point, had any instructions from Hydro and was assisting me in every way he could in these matters, merely repeated something that had not been brought to his attention. When it came to my attention, as Mr. Bradshaw will be quick to tell you, I nixed it or vetoed it immediately, and that's the last we ever heard of that matter. There was no understanding and there was, of course, no ~~any~~ instructions at any time from Hydro to agree, nor were we even prepared to consider the guarantee of the province.

Mr. Shibley: Well what - I must say that I concluded that had been a change of terms until I saw the notation on the page attached to this document and I would like to understand from Mr. Bradshaw, if he would, what purpose there was in somebody noting this document, "Keen as evidence of ~~Elwood's~~ agreeing to the province's guarantee."

Mr. Bradshaw: Well, Mr. Shibley, I told you I hadn't seen this copy of the agreement with this note on it. My instructions at a meeting that was held jointly with

Mr. Coles, Mr. Moog and Mr. Candy were - included a guarantee.

Mr. Shibley: Now at some point in time that changed and Mr. McCallum has indicated that . . .

Aug. 1/73
5:05-5:10 pm
PLG

(Mr. Bradshaw)

~~Mr. Bradshaw: Now I am going to say that~~
~~charged, and Mr. McCallum has indicated that he~~

Mr. Bradshaw: I think it is a little unfair that I am under oath and he isn't and I don't mean this with any disrespect to Mr. McCallum. He is only trying to keep the thing going and I understand, ^{as} he says, he is going to have his day. According to my notes, ~~it~~ it was a meeting on October 23 that I discovered there was to be no guarantee.

Mr. Shibley: Not until then?

Mr. Bradshaw: That's right. Now perhaps in Mr. McCallum's mind there wasn't any possibility that there was going to be a guarantee at an earlier date, but that is when...

Mr. Finlayson: Mr. Chairman, I don't want to get involved in this but I think that it might be a little better if we had the original of this particular exhibit because it is quite apparent from looking at the file that the note that my friend ~~is~~ is referring to is put on with a paper clip and it is a completely different piece of paper. It is obvious, and I can say ~~it is~~ it is Mr. Moog's handwriting...

Mr. Shibley: Well, that may be, but the point is that it refers to "the province's guarantee, page 11." Are you suggesting...

Mr. Finlayson: Oh no, no, no. I am not suggesting that it doesn't refer to page 11, but I am just thinking in terms of fairness to the witness that it is quite apparent that if we had the original and put it before us...

Mr. Shibley: Thank you. I would be obliged if you would give him the original, but I am interested now in the witness's last answer that the first date on which you were aware, Mr. Bradshaw, that the province's guarantee was not to be provided under the lease agreement was on October 23, 1972. Is that correct?

Aug. 1/73
5:05-5:10 pm
PLG

Mr. Bradshaw: As soon as you repeated that to me I realized that I may have just been a little too quick on that. That is the date that I made a note of it. Let me see what day of the week it was. That was a Monday. I think I discovered it the day before probably.

Mr. Shibley: On October 22.

Mr. Bradshaw: Yes. I think on the Sunday. The Saturday or the Sunday before.

Mr. Shibley: Now, Mr. Finlayson wants you to have the original document in front of you.

Mr. Finlayson: Well, I am just ~~was~~ pointing out that it just seems to me that in the interests of accuracy ~~that~~ it would give you a little different impression ~~than~~ in its real form than in the photocopy form.

Mr. Shibley: Well, I'd like the witness...

(I don't know that it makes much difference ^{that} I'd like you to ~~was~~ have it in front of you, and perhaps for all members of the committee, that is the way it ~~is~~ ^{5 up} formed ~~the~~ the document itself is as you have got it with a slip of paper attached with the ~~the~~ writing indicated

Mr. Thomson: Mr. Chairman, there is a difficulty that has come out of this. I think that Mr. Bradshaw should not have answered the last question, because I think if you ask him from whence he found out, that you may find that he found out from ^{his} ~~a~~ client, so that still leaves open the question of how his client found out and when.

Mr. Bradshaw: Yes. Well, I ~~was~~ blew that one. I told you something that he told me. It was a privileged situation.

Mr. Shibley: Well, Mr. Bradshaw, however it came out, I think this committee is very interested now in knowing about this matter of a provincial guarantee. Just going back, you drafted a document on August 3, which incorporated the provision as found on page 11 of this document. What was the next in the

sequence of exchange of drafts ~~and~~ with you and Mr. Houser?
Or Mr. McCallum.

Mr. Shibley: I'd like the chronology of discussions and draft documents as between yourself and Mr. McCallum or Mr. Houser.

Mr. Bradshaw: ~~He~~^{We} prepared^{ed} following that meeting.

Mr. Bradshaw: And then we met with Mr. Houser on September 7 to discuss that draft.

Mr. Shibley: So you prepared the draft, submitted it to him, ^{he} ~~he~~ considered it.

Mr. Bradshaw: No, No. I didn't submit it. I tried to make that clear. I gave it to Canada Square, ~~and then at~~

~~our meeting on Wednesday~~

Tape H 1668 follows

August 1, 1973
5.10 - 5.15 p.m.
M.R.

Mr. Shibley: Yes.

Mr. Bradshaw: And at our meeting Mr. Houser

had a copy of it.

Mr. Shibley: I see. Well, all right. So that

you gave it to your client the next time you dealt with it with Mr. Houser already had it on September 7?

Mr. Bradshaw: Yes.

Mr. Shibley: All right. Let's take it from

there: What next happened?

Mr. Bradshaw: The next meeting was on

September 21.

Mr. Shibley: Yes.

Mr. Bradshaw: By which time we had had a chance

to review Mr. Houser's draft and we ...

Mr. Shibley: Which is the one now in exhibit?

So that was the second draft. You did a first ...

Mr. Bradshaw: Yes.

Mr. Shibley: You discussed it and this became

the second draft?

Mr. Bradshaw: Right.

Mr. Shibley: All right.

Mr. Bradshaw: We had a very full meeting.

Mr. Shibley: When was that?

Mr. Bradshaw: In Mr. Houser's office on

September 21.

Mr. Shibley: Yes.

Mr. Bradshaw: At which there were eight people.

and it went on for some time ...

Mr. Shibley: Well, may I ask you when you say

there were - how many people there?

Mr. Bradshaw: Eight people.

Mr. Shibley: Yes. Were they all from Hydro and/

or Canada Square or their respective solicitors?

Mr. Bradshaw: Yes.

Mr. Shibley: All right.

August 1, 1973
5.10 - 5.15 p.m.
M.R.

Mr. Bradshaw: And we discussed it in detail again.

Mr. Shibley: Yes.

Mr. Bradshaw: The next day I went to talk to Mr. Houser about the high credit lease and I suspect I gave him the memorandum of September 22, 1972 at that point.

Mr. Shibley: Yes.

Mr. Bradshaw: Explaining we had discussed that type of arrangement on the 21st.

Mr. Shibley: Yes.

Mr. Bradshaw: And I put it down in writing and on the 22nd we met because I know it was just Mr. House and I at that point, discussed it. Then the next full dress meeting was September 28, which Mr. Moog and Coles and ~~Stedman~~ ^{Stedman} and I met with Mr. Houser and we talked, I think, mostly about the high credit lease and what would be the - it was really at this stage we were developing the idea of splitting the lease that had been attached to the original proposal and the agreement as I had drafted it and split it into the two leases and the net - or the net lease and the building lease with the lease-back in between them.

And then - that was now again that was the 28th and it appears that it was not until the beginning of October that we again met with Houser, Mr. Houser, because it's on the 5th of October that Mr. Steadman and I went to see Mr. Houser again.

The next meeting then - I'm sorry, Mr. Shibley, you did ask me to tell you when the drafts were prepared and I can't tell you that. There were -

Mr. Shibley: Just to the best of your ability if you can ..

Mr. Bradshaw: I think that the next draft of the agreement was prepared by us.

Mr. Shibley: Yes.

H-1668 - 3

August 1, 1973
5.10 - 5.15 p.m.
M.R.

Mr. Bradshaw: And then from then on - over the -

in the middle of October we prepared ~~it~~

H-1669 to follow

August 1, 1973
5:15 - 5:20 p.m.
B.G.

~~(Mr. Bradshaw)~~

~~... objections, it might have something to do with our Premier and his initials, or there may be some other reason. The Motor Vehicle Administration~~

~~Mr. Bradshaw: In the middle of October we prepared~~
the leases which became the schedules to the agreement, the ground lease, the net lease, the lease-back, and those were ~~again~~ ^{again} all prepared by our office, and submitted to Mr. Houser, and then we started to circulate the ~~the~~ draft with all those in it.

Mr. Shibley: Yes.

Mr. Bradshaw: And there were changes made; there were several revised ~~versions~~ ^{versions} of that with little changes. We would meet and talk, and I can ~~take~~ ^{take} you through each meeting that we had. We met with Mr. Houser on the 13th and 14th of October, and then we met again with him on the 16th, again on the ~~16~~ 17th, and then on the 23rd, and that was the last meeting that I attended. That's the Monday; that was the date on which it came to me that there was to be no guarantee, that was, ~~no~~ ^{it} you know, tying ⁱⁿ in the chronology, And then Mr. Steadman met with Mr. ~~Mr~~ Houser and McCallum on the 24th, and this I am basing strictly on our time, you know, our dockets. And, I think the rest of it was done by phone.

Mr. Shibley: Mr. Bradshaw, the documents in their ultimate form, or many of them, were given a date of October 18, 1972, is that correct?

Mr. Bradshaw: Yes, that's right.

Mr. Shibley: And do I take it that the document, which is in draft form as part of Exhibit 196, ^{was} was -

Mr. Bradshaw: ~~Which~~ ^{Was this the} ~~one?~~ ^{one?}

Mr. Shibley: The one that I have just ~~presented~~ ^{presented} to you. Was that one of the documents that was expected to be in complete form on October 18?

Mr. Bradshaw: Well, I don't know whether we expected them to be in complete form, Mr. ~~Shibley~~ ^{Shibley}, but we -

August 1, 1973
5:15 - 5:20 p.m.
B.G.

Mr. Shibley: But did you have that document drafted in a settled form ~~in~~ on October 18?

Mr. Bradshaw: Oh no, there were ~~negotiations~~ negotiations after that.

Mr. Shibley: Yes.

Mr. Bradshaw: That document became the master agreement.

Mr. Shibley: ~~Yes~~; but on October 18 was there still provision in that document with provision for a guarantee by the Province?

Mr. Bradshaw: Oh, I think probably there was.

Mr. Shibley: ~~There was~~ ^{was} now what ~~was~~ explanation was given to you for the change from the inclusion of the guarantee in the document to one which did not provide any such guarantee?

Mr. Thomson: Unless he was told by his clients.

Mr. Shibley: Thank you.

Mr. Bradshaw: Yes, well, unless I was told by my client, ~~and~~ I suppose it was given ~~me~~ to me by Mr. ~~Mc~~ McCallum ~~that~~ at this meeting, and I think that the type of explanation they said well, it was just impossible.

Mr. Shibley: I see.

Mr. Bradshaw: But, I'm sorry, would you like to ~~continue~~

Mr. Bullbrook: No, that does cause me some concern, because I understood from the comments made by Mr. McCallum that there never was any contemplation on the part of Ontario Hydro at any time.

Mr. Bradshaw: Yes, ~~but~~ that may well have been, but there certainly was contemplation on my part. I mean, I put it in a document and I didn't do it just for the fun of it, Mr. Bullbrook.

Mr. Bullbrook: Perhaps my mind has been ~~wandering~~ wandering then. Do I take it from what you are ~~saying~~ saying that from the initial drafting which I ~~have~~ have a note of sometime in August, after August 3rd, to October 18th, that you continued to be of a mind or a thought, that there was to be a guarantee by the government of Ontario?

H-1669-3

August 1, 1973
5:15 - 5:20 p.m.
B.G.

Mr. Bradshaw: Indeed.

Mr. Bullbrook: And during that time had you had any dealings with Mr. McCallum?

Mr. Bradshaw: Yes.

Mr. Bullbrook: Well, ^{you'll} ~~you~~ pursue that, I --

Mr. Renwick: Mr. Chairman, if I could just ask, perhaps counsel could clear it up, if counsel is going to do it, Mr. Bradshaw, I would like to know one or the other, either that the information came to you from your client in which case it was privileged, or I understand it, or the Board or some other expression of some other.

(Tape H-1670 follows)

August 1, 1973
5.20 - 5.25 p.m.
M.R.

(Mr. Renwick)

~~...to~~ to you from your client, in which case it was privileged, as I understand it, or the meaning of your expression, "I suppose that it came from Mr. McCallum".

Could you help us clarify that?

Mr. Bradshaw: ^{Oh,} ~~Well,~~ I'm sorry Mr. Renwick,

Notwithstanding the privilege of my client in this connection I have said that I first heard about it on the weekend. It was before this meeting.

Mr. Renwick: Yes.

Mr. Bradshaw: So I don't think there is any harm

in repeating that now I've blown it. I don't know whether he told me the reason for it or not, but if he didn't certainly Mr. McCallum on the 23rd, which was not a privileged occasion. The first note I have here is that there will be no guarantee.

Mr. Renwick: Well, that's the point I wanted to clear up: That Mr. McCallum did tell you specifically on the 23rd that there was to be no guarantee.

Mr. Bradshaw: Yes. Now it may have been in his mind long before that, but he didn't tell me until then.

Mr. Renwick: I was just confused by the use of the expression.

Mr. Bradshaw: Now I'm trying to put my mind

to what the reason given was, and I think it's probably supports what he said - the sort of thing - it was impossible, it wasn't in it.

Mr. Shibley: I think what the committee may be interested in knowing, Mr. Bradshaw, you've told Mr. Bullbrook that you had had previous dealings with Mr. McCallum, vis-a-vis the drafting of this document.

Mr. Bradshaw: Yes, but we may not have focused on that particular provision.

Mr. Shibley: I realize that. He didn't, prior to October 23, bring to your attention that the inclusion of that term was impossible?

August 1, 1973
5.20 - 5.25 p.m.
M.R.

Mr. Bradshaw: That's right.

Mr. Shibley: Notwithstanding that you had reviewed the document with him prior to that date?

Mr. Bradshaw: Well, now in fairness to that team, the detailed review of ~~that~~ documents, because it was of solicitors' nature was Elmer Houser and Steadman ~~and~~ I and Mr. McCallum was involved ~~in~~ in negotiation, but ~~he~~ he wasn't involved in the clause by clause consideration every time.

Mr. Shibley: I think what the committee wants to know is when you say that Mr. McCallum told you on the 23rd that that guarantee was impossible, was this an indication of a change of circumstance?

Mr. Bradshaw: I'm not able to really focus on that, Mr. Shibley.

Mr. Bullbrook: Would you permit me - I really think there that we are going to have to get that from Mr. McCallum and I don't want to put him in the awkward position of making representations. I'm sure that Mr. McCallum is going to have an adequate explanation in connection with this.

Mr. Shibley: Except for this, Mr. Bullbrook: There is this notation on the face of this document and it was made by Mr. Moog, I'm really quite anxious to know what this witness can say, without violating any privilege, as to why, after Mr. McCallum communicated to you on October 23 that it was impossible to include a provision for a provincial guarantee that Mr. Moog made the ~~xx~~ notation, *Very* as evidence of Elmer's agreeing to the province's guarantee, Page 11..."

Finlayson:

Mr. ~~Bullbrook~~ Mr. Chairman, there is no evidence of that. That's why I produced the original, that the note is clipped on to the draft dated September 15, 1972. Now, I don't know when it was made, but it was obviously made in reference to the draft of September 15, 1972. There is no evidence that the note was made after October 23.

August 1, 1973
5.20 - 5.25 p.m.
M.R.

Mr. Shibley: Well, I'm sorry, Mr. Finlayson, you are right. There is no evidence of it. I just presumed it because until the change there wouldn't be any need to keep the document as evidence of the agreement. The agreement itself would speak for itself, but it seems to - it struck me that what had happened and I'm sorry to have put the question in that form. Can you help me immediately by asking Mr. Moog when he did make that notation?

Because I must say that I took it as granted that it must have been made at a point of time when the document was being changed in that respect.

Mr. Finlayson: He doesn't know.

Mr. Chairman: Mr. Newman.

Mr. Bullbrook: What is causing me concern is

Mr. Chairman: Mr. Newman is first.

Mr. Bullbrook: Oh, I'm sorry.

Mr. W. Newman: Mr. Chairman, I'm rather confused at this moment in time in direction and I really don't know, but I'm just wondering and my question will be to Mr. Shibley: Would it be anything to do with the fact that maybe Hydro had an idea at that time that it was going to be a Crown Corporation?

Mr. Shibley: Would you like to answer that, ...

~~Mr. McCallum: I'd like to answer that if I could.~~

~~Maybe I can help you on several things. First of all,~~

~~there was never any instruction from Hydro.~~

August 1, 1973
5.25.5.30 p.m.
M.F.

H - 1671 - 1

Mr. McCallum: I would like to answer it if I could.

Maybe I can help you on several of these things.

First of all there ~~was~~ never any instructions from Hydro about a Crown corporation nor any intimation of it. This idea of the guarantee as well as the 90-per-cent-owned company was formed in the minds of either Canada Square or its advisors, ~~never in the minds of Hydro~~ ^{The matters were,} as Mr. Bradshaw has said to you, presented to Hydro I guess in the nature of a kite that they were flying. ~~as many other kites that they flew,~~ ^{like} to see if it was part of the bargaining process. ~~and~~ In respect to the matter that is troubling you just right now on the question of the provincial guarantee, when the matter was first brought to my attention—and I haven't got a diary here with me, I will help you on it tomorrow—my response was to say, "No way, there will be no provincial guarantee unless you people bring me a letter from the province indicating that they are agreeing to this". Well, I can tell you I never heard about it again. I may very well have ~~done~~ ^{he} exactly what Mr. Bradshaw said, say that to him at that time, but that was the end of it.

Mr. Finlayson: Mr. Chairman, I am just, like everybody else, trying to head something off, ~~and~~ Mr. Moog will be coming back tomorrow, but without in any way committing him to what I am going to say, as I understand it ~~was~~, and this is at the risk of violating a privilege—what Mr. Moog told Mr. Bradshaw ^{to} stick this in his draft agreement. But Mr. Moog was just trying it on for size, and then when Mr. Elmer Houser sent his draft back with the same clause still in it, he said, "Aha, it is an Igotcha", you see. And that is what he made the note about, so this ~~is~~ ^{was} all part of the negotiating ~~and~~ process.

What he was saying is that, "Ha, we have got an agreement with Elmer on that point", but now Mr. McCallum tells us that Mr. Houser hadn't put his mind to that particular clause and this is all part of what I am told ~~is a~~ highly contested and hard-fought

August 1, 1973
5.25-5.30 p.m.
R.F.

H - 1671 - 2

(Mr. Finlayson)

negotiation session. ~~and~~ I have bargained with Mr. McCallum on occasion and he can be ~~be~~ pretty hard-nosed guy and I don't think you got any impression that Mr. Moog would back down from anybody in these negotiations either, so I really think we are just going up another ~~blind~~ ^{blind} alley.

Mr. Thomson: Mr. Chairman, I want to make ~~me~~ a comment about that. I don't think again that it is really right so far as Mr. Bradshaw is concerned ^{that} he should be up there testifying under oath, with all kinds of other people, be they Mr. Moog's counsel or otherwise, volunteering information during the middle of it. I think that in this issue the obvious fact is that Mr. Bradshaw is not the one who should be testifying, and you know we can be here for a week more.

Mr. Walker: What's a week?

Mr. Shibley: The only reason I am asking ^{him} is that he was involved in the negotiations and drafting of the documents and I think he has been very helpful in establishing when that provision was cancelled out, which is a very material date, Mr. Thomson. ~~and~~ then I wanted to know whether there was some significance to the notation of Mr. Moog, known to Mr. Bradshaw, because while I have him here it is the only opportunity I have to ask about that, and I must tell you this committee is very, very much concerned about whether it was ever part of the effort that the province's guarantee be provided because, of course, it went to the heart of the transaction that they did not want to borrow with a provincial guarantee.

I am similarly concerned by the note I mentioned in another document, October 1, Treasury Board, you know, I have got to ask these questions and I don't think even in this area that any member of this committee doesn't recognize the complete relevancy of what I am asking.

Mr. Thomson: My difficulty is I don't understand all the facts and all the points.

August 1, 1973
5.25-5.30 p.m.
M.F.

H - 1671 - 3

Mr. Shibley: I realize that, Mr. ~~Thomson~~ Thomson,
and you have been more than co-operative and I appreciate it.
But at the moment, Mr. Bradshaw and I appreciate that your own
knowledge may be even limited but can you help me at all as
to the significance, or can you comment at all upon this note
that was attached to Elmer Houser's draft?

Mr. Bradshaw: Well, I know nothing that is -

Tape H - 1672 follows

Aug. 1/73
5:30-5:35 pm
PLG(Mr. Bradshaw)

Well I know nothing that you don't know that would help me to comment on that with any more sagacity than you have already done.

Mr. Shibley: Okay. That is as far as I can take you.

Mr. Bradshaw: Is that right?

Mr. Shibley: No No. Hold on a minute. Was Mr.

Candy in attendance during the course of these meetings?

Mr. Bradshaw: A lot of them, yes.

Mr. Shibley: He was.

~~Mr. Bradshaw:~~ And was anyone else present from Hydro at these meetings?

Mr. Bradshaw: I didn't meet anyone except Mr.

Candy .

Mr. Shibley: So he was the representative of Hydro each time there was a meeting to discuss the terms. Is that correct?

Mr. Bradshaw: I don't know whether or not after I ^{WASN'T} ~~was~~ involved in the thing so directly. After the 23, whether or not somebody else attended the meeting that Steadman was at, but up until the time, there were the two special counsel and Mr. Candy. We talked about Mr. Nastich because he was -- I think Mr. Coles had to go see him about the exchange rate formula and this ~~the~~ type of thing, but I didn't see anybody else. I didn't talk to anybody else.

Mr. Shibley: Have you any knowledge or information as to whether Hydro made any effort ~~a~~ to obtain the agreement of the province to provide the guarantee?

Mr. Bradshaw: No.

Mr. Shibley: You don't know any..

Mr. Bradshaw: I have no information.

Mr. Shibley: Was Mr. Candy present at the meeting at which you received instructions to incorporate that provision in the first draft?

Mr. Bradshaw: He was at the meeting at which I received instructions. I would be trying to recall something--I can't say

Aug. 1/783
5:30-5:35 pm
PLG

(Mr. Bradshaw):

whether or not the specific instructions with respect to the guarantee were given in his presence or not.

Mr. Shibley: But he was at the meeting?

Mr. Bradshaw: He was at the meeting and it was a meeting, but I don't know whether I got there first or whether I stayed after...

Mr. Shibley: I see. You can't be specific as to whether that particular instruction was given to you in his presence.

Mr. Bradshaw: No I can't hang that on him. He might have been there or he might not.

Mr. Chairman: Watch that inflammatory language.

Mr. Shibley: All right. Now, unless members of the committee who are more knowledgeable in this area than I am have more questions to ask of the witness, I am going to pass on to something different.

Mr. Renwick: I ~~have~~ have got one question that is not particularly knowledgeable. Were you surprised that it was to be deleted?

Mr. Bradshaw: Yes.

Mr. W. Newman: What is this exercise all about?
I am sorry Mr. Chairman, I don't really understand. Maybe I shouldn't ask at this time.

Mr. Chairman: I am still hopeful that we can terminate with Mr. Bradshaw. YOU ARE READY TO PROCEED, MR SHIBLEY?

Mr. ~~Shibley~~ Shibley (YES I AM) Mr. Bradshaw, one of the terms of reference or rules of the -- I believe it was of the Equitable that were provided to you in the exhibit that you have already had produced, involved ...

Mr. Bradshaw: The letter from Nugent and the New York State...

Mr. Shibley: You will ~~note~~ notice in the enclosure of Exhibit 193 it talks about certain terms upon which they might make lending, and skipping immediately to the second page of that

H 1672-3

Aug. 1/73
5:30-5:35 pm
PLG

(Mr. Shibley)

DOCUMENTS

One of the circumstances that they take into account: ~~which~~

"At the time ~~the~~ the investment is made, the corporate obligor has an equity of at least 10 per cent of the real estate which is the subject of the lease or leases and and/or mortgage,

Tape H 1673 follows

August 1st, 1973

5.35 - 5.40 pm

H 1673 - 1

AA

(Mr. Shibley)

~~Equitable was not the ultimate lending institution~~
~~but a subsidiary of a larger corporation~~
~~subject of the lease or instrument~~ unless a single corporation or instrumentality of government is relied upon to satisfy the above requirements on a net lease basis and such lease provides for 100% amortization of the investment.

Now then, in that respect, and I realize that the Equitable was not the ultimate lending institution, I am concerned to know from you, Mr. Bradshaw, whether it was material to the negotiations you were conducting with Mr. Houser and Mr. McCallum, to try to qualify within that rule.

* Mr. Bradshaw: With Equitable?

Mr. Shibley: Well, with the ultimate lending institution. I know this is a rule for Equitable but I am taking it that it is not unlikely to be a rule also of the ultimate lending institution.

Mr. Bradshaw: I don't know whether it is or not.

Mr. Shibley: Well, was it material, in any event, to your negotiations with Hydro, to attempt to come within that rule, to qualify under that rule?

Mr. Bradshaw: I didn't discuss these rules in detail with anybody, Mr. Shibley. You and I can find out about as much, or you can find out about as much about them as I can because I, it would only be by reading them. But, when we discussed the matter with Equitable, I understood there would be a provincial guarantee.

Mr. Shibley: All right.

Mr. Bradshaw: Now, Mr. Shibley, can I add one thing?

Mr. Shibley: Sure.

Mr. Bradshaw: ~~You said~~ You made a point that

August 1st, 1973

5.35 - 5.40 pm

AA

H 1673 - 2

(Mr. Bradshaw)

one of the things that Hydro wanted to do was avoid a guarantee of its borrowing, ~~because that was~~ you know, a provincial guarantee of its borrowing, but this isn't borrowing. We are back to our old discussion . . .

Mr. Shibley: I realize that.

Mr. Bradshaw: . . . ~~that~~ ^{off off-} balance-sheet financing and lease obligations.

Mr. Shibley: The committee will understand though that if the guarantee of the province is given, they are back to square one. I think I am right *on that*.

Mr. Bradshaw: Not quite square one, no.

MR. Shibley: Mr. Allan, would it not be so?

Mr. Allan: I would be afraid so.

Mr. Shibley: Yes. And that's the former Treasurer. So I think we can take his word for it.

Mr. Allan: That's like backing a note. I was never very enthused about that.

Mr. Chairman: He's not under oath, ~~that~~ ^{you know}.

Mr. Shibley: There are a few things I would like to ask you about . . .

Mr. Bullbrook: I just want to ask one question. I take it that the provision of paragraph 37 on page 15 of the original draft, contemplating the establishment of an appropriate corporate structure therefor in the context of our time, did it have something to do with the Equitable problem, if I can put it that way, and when was it removed?

Mr. Shibley: Do you follow that, Mr. Bradshaw?

Mr. Bradshaw: Yes, I think I do. Yes, it was related to withholding. It's the same provision. In fact,

August 1st, 1973

5.35 - 5.40 pm

H 1673 - 3

AA

(Mr. Bradshaw)

there is very little change from the original proposal. It got into my draft and it's still there in Mr. Houser's draft, and it related to the fact that we were dealing with Equitable at that time and it had a withholding tax problem.

Mr. Bullbrook: Well, I take it then, concurrent with leaving Equitable and going to company "X", that was eventually omitted.

Mr. Bradshaw: Well, I believe Mr. McCallum did take the approach towards that that he ~~took to the guarantee~~ but in any event, we had solved the problem of withholding tax.

Mr. Bullbrook: I see.

Mr. Shibley: That's the point and I am glad Mr. Bullbrook reminded me of it. If I can get the sequence ~~correctly~~ correctly then, ~~that~~ on August 7th, 1972, the Swiss source of funds ~~was~~ cancelled out by the telephone call you mentioned. Then you pursued the matter with Equitable. Is that correct?

Mr. Bradshaw: On the ~~10th~~ 10th.

Mr. Shibley: On the 10th of August. And your efforts with Equitable continued on through August, September, and October even, with the problem being one of the withholding tax, the problem you hoped to overcome with the creation of a Crown corporation. Is that correct? To bring you within the exemption.

Mr. Bradshaw: Yes. That was still a possible way of dealing with it, Mr. Shibley. I don't think we decided that that was the only way.

Mr. Shibley: Yes.

~~and I wonder if the~~

H 1674 - 1 follows

August 1, 1973
5.40 - 5.45 p.m.
M R

(Mr. Bradshaw)

~~... if we don't have that, we can't have that...~~
Mr. Shibley: Yes. Now then, at some point of time, and I'd like you to establish the point of time, you swung over to X company because withholding tax was not a problem because they had offsetting deductions in Canada and when was that?

Mr. Bradshaw: Beginning of October.

Mr. Shibley: Beginning of October. And that's why you were able to drop the concept of a Crown Corporation, as part of the proposal. Is that correct?

Mr. Bradshaw: Correct.

Mr. Shibley: But you were still of a mind to seek a guarantee of the province. Is that right?

Mr. Bradshaw: Yes.

Mr. Shibley: And that was not eliminated until October 23 when Mr. McCallum told you that it was impossible?

Mr. Bradshaw: Yes.

Mr. Bullbrook: I don't want to split hairs, the word "impossible" ~~didn't~~ got me into this before. I just want to record that impossible to me connotes that it had been undertaken and found to be impossible. I understand that Mr. McCallum says it never was contemplated and I realize I'm splitting hairs but that's why I got into it before because of the word impossible and I know we are going to take up this with Mr. McCallum, but I understand Mr. McCallum to say that this was never contemplated as far as Ontario Hydro was concerned.

Concurrent with that, there never was any advance to the government of Ontario saying "Will you guarantee this obligation" and I know we are going to get to Mr. McCallum on that. I appreciate your permitting that interjection.

August 1, 1973
5.40 - 5.45 p.m.
M.R.

Mr. Shibley: Just to finish that off, we are left to ask Mr. Moog why he made the notation that he did. Now, Mr. Bradshaw, I want to just talk about a couple of elements of the agreement itself with you. With respect to the exchange rate fluctuation, was it a matter of agreement from the outset that the fluctuation should be predicated on the dollars being at par or was it required to negotiate to the result that Hydro agreed to accept the fluctuations from the position as it existed when the money was taken down in 1975?

Mr. Bradshaw: This is an incredibly complicated area, Mr. Shibley. The original form of lease attached to the proposal which is referred to in the proposal in connection with these exchange rate fluctuations provided for fluctuations from the rate of exchange in effect at the date the monies were drawn down and that was always the position that I took in connection with the matter.

It was questioned by Mr. Houser and Mr. Coles - when I say questioned, we had long discussions of it-and Mr. Coles prepared some examples which he gave to Mr. Houser which I understand were given to discuss with Mr. Nastich and I would like to characterize the matter as that Hydro and its advisors saw in the end why it was fair to do it on the basis that we had proposed in the first place and why any other basis would be either giving a possible prize to
or
Hydro/to Canada Square. It would be gambling. The only way to hedge the thing properly was to make it fluctuations in the exchange rate from the date on which the monies were actually advanced.

Mr. Shibley: Yes. So that what it really amounts to and I just want the committee to understand this and I agree with you. It is very complicated and I've taken some time studying it and I'm hoping that in very precise terms you can explain it to the committee.

H-1674 - 3

August 1, 1973
5.40 - 5.45 p.m.
M.R.

(Mr. Shibley)

What it amounts to is this: That if the U.S.
dollar is at a variance in value at the time

H-1675 to follow

August 1, 1973
5.45-5.50 p.m.
M.F.

H - 1675 - 1

(Mr. Shibley)

~~if the U.S. dollar is at a variance in value at the time that~~

that Canada Square takes its money down on the permanent financing, that forms the base respecting which the calculation of fluctuations ~~was~~ made. Is that correct?

Mr. Bradshaw: I think by saying a variance in value you have immediately entered into a pitfall. You see, nobody knows what the exchange rate is going to be at the date that the money is taken down. I mean when you say at a variance in value, *it is at* are you suggesting ~~was~~ *at* par now or was ~~at~~ *at* par when we negotiated this? I think what you have got to do is forget about one to one.

Mr. Shibley: Yes, that is what Hydro thought they were going to do, one to one, but you persuaded them to abandon that and go to -----

Mr. Bradshaw: No, I don't believe that is the case, Mr. Shibley.

Mr. Shibley: All right, I am sorry.

Mr. Shibley: I tried to put that quite carefully; I chose my words carefully.

Mr. Shibley: All right.

Mr. Bradshaw: The proposal was always that which it ended up and I think -----

Mr. Shibley: Your proposal, I know that.

Mr. Bradshaw: And I think that Hydro realized, and its advisors - and I was only dealing with its advisors - realized that what we had proposed was, indeed, the fair, equitable, proper thing, and that anything else wasn't creating a proper hedge but was rather creating a bit of a crap shoot.

Mr. Shibley: The overall effect, however, of making the exchange rate fluctuations a computation based upon the date of the take-down is that Canada Square is not at risk as to any fluctuation in the period say between the date of the making of

August 1, 1973
5.45-5.50 p.m.
M.F.

H - 1675 - 2

(Mr. Shibley):

the contract and the date of taking it down.

Mr. Bradshaw: No, that's wrong.

Mr. Shibley: Well, why would you be stipulating for it on that basis if that was not your purpose?

Mr. Bradshaw: You see, what happens is, by making it the date of the take-down, what one or the other might gain on the date of the take-down is made up by the rental payments, subsequent rental payments. If you made it so--suppose that we do you want me to go into this?

Mr. Allan: Yes.

Mr. Chairman: It is fascinating. I am not so sure how many of us are understanding it, but I certainly appreciate the lesson.

Mr. Bradshaw: I will see if I can do it again. I just wish I could do this without being under oath.

Mr. Chairman: It is like teaching under oath; it is ~~pretty tough~~ isn't it?

Mr. Bradshaw: If I add up wrong, I could be up for perjury.

Mr. Shibley: That is only intentional misstatement.

Mr. Bradshaw: Suppose we start off with the two currencies trading at par and this is at the time when the money is taken down.

Mr. Chairman: If it will ease your mind, I am sure the committee doesn't want this sort of thing under oath.

Mr. Henderson: I wonder if we could relieve the witness ~~from~~ ^{being} under oath at the moment?

Mr. Chairman: I appreciate the problem he is labouring under, and -----

Mr. Henderson: I understand what he is trying to tell us.

Mr. Chairman: Right. If that will allow you to speak

August 1, 1973
5:45-5:50 p.m.
M. F.

H - 1675 - 3

(Mr. Chairman)

more freely, by all means you are now relieved of the oath and I have the consent of the committee to do so, for the time being.

Mr. Bradshaw: If the rate is at par when the permanent financing is completed ~~and~~ —and let's assume that the mortgage is for \$45 million—then Canada Square receives \$45 million in Canadian funds. ~~This~~ ^This is a U.S. mortgage, but it receives \$45 million in Canadian funds, which it uses to defray part of the cost of the building, to pay off the interim financing, etc., and then the rental rate is 44, which is, you know, what the rate is now. Oh, I am sorry, 44 subject to fluctuation. Now if at some time the U.S. dollar goes to say ~~90~~ 90 cents in terms of Canadian dollars, then the rental rate, Hydro only has to pay 90 cents. It is not the whole of the rental, of course, because part of it ~~goes to the mortgage~~ ~~we are only talking about the net. What is the rental on the net basis?~~

Tape H - 1676 follows

(Mr. Bradshaw)

goes to the maintenance costs so we are only talking about the net. What is the rental under the net lease?

Mr. Shibley: \$4.92, less an adjustment of ~~One dollar~~

Mr. Henderson: That is part of the maintenance.

Mr. Bradshaw: \$3.35. You work with that figure.

So if it remains at par then Hydro in fact is paying under the net lease \$3.35. If American currency becomes cheaper in terms of Canadian, then the rental under ~~the~~ that net lease would be reduced proportionately.

Mr. Henderson: Mr. Chairman, now are we speaking about the loan or about the pay back?

Mr. Bradshaw: No. I am talking about the rental under the lease, *Mr Henderson.*

Mr. Henderson: The rental. ^{So} ~~for~~ the pay back.

Mr. Shibley: It is the rental payments.

Mr. Bradshaw: It is a rental payment and the amount that is payable will be reduced. The net amount repayable is reduced. If it only costs \$3.00 to buy \$3.35 U.S., then Hydro pays only \$3.00 under the lease.

Mr. Henderson: Well the part Mr. Bradshaw, that I am trying to ~~understand~~ establish in my mind is that this exchange is available and ~~not~~ available to Hydro following the conclusion of the contract in the years over the 30-year period.

Mr. Allan: The rental covers ^{total} the pay back.

Mr. Henderson: No. No. Over the 30-year ^{period} ~~pay back~~.

Mr. Bradshaw: Well, I am sorry. Can I go on and try and explain it in my own way and ^{then} ~~we~~ will come back ~~and~~ to answer ^{the} questions? Now if on the other hand, the U.S. dollar becomes -- has greater value than the ~~Canadian~~ ^{Canadian} so it costs \$1.10 Canadian to buy one dollar U.S., then the rental rate of \$3.35 will go up by that amount. The rental rate is always the amount in Canadian dollars required to buy the \$3.35 U.S. Now it is not as simple as that under the way the lease has ended

Aug. 1/73
5:50-5:55 pm
PLG

(Mr. Bradshaw)

up, because the net lease is payable in U.S. funds, and the other is payable back in Canadian equivalent, but if you will just take my word for it for the moment, that really what happens is that the rental -- the effective net rent under this lease is the amount in Canadian dollars ~~required~~ ^{needed} required to buy that amount U.S. ~~So~~ ^{Now} that is when they are at par on the day that ^{the} take-down. Now suppose that instead of being at par first of all the American dollar has dropped off in value, and so instead of getting \$45 million Canadian, all that Canada Square would receive would be the Canadian equivalent of the \$45 million U.S., which would be about \$ 4 million less, so Canada Square gets \$41 million only, but the amount of rent required ^{and} the rental is fixed still at \$3.35. It gets less money now, but then-- I am sorry, what happens is, Hydro, in order to buy the \$3.35 U.S. pays less than \$3.35. It pays only 90 per cent of \$3.35. So the rental under the ^{Hydro} Hydro pays a ~~the~~ lower rental under the net lease, thereby leaving a larger excess over the rental under the ~~net~~ net lease between that and the amount, the ~~xxx~~ total \$4.92 payable. It is going to pay \$4.92 and it is going to pay part under the net lease and then part under the building lease, if you can think of it in terms of separating it. It pays the same amount, starts off at exactly the same amount ~~of~~ ^{of} 44, but the rental -- actual amount of rental under the net lease is reduced to 90 per cent of \$3.35, so that leaves more for the maintenance

Tape H 1677 follows

H-1677-1

August 1, 1973
5:55 - 6:00 p.m.
B.G.

(Mr. Bradshaw)

~~for 90 per cent of \$335, so that leaves more for the maintenance~~
and operating costs, etc., And so, although Canada Square received
\$4 million less, had ~~to~~ put \$4 million more of its own money up,
because of the exchange fluctuation, it will receive over the
period of time, over the period of the lease, an ~~additional~~
additional amount in excess of the ~~net~~ rental under the net
lease. So, it's lost funds initially, but it makes them back
over the 30 years.

Now, if there is a fluctuation then, from 90 per cent,
then Hydro will have to, if it goes further down, Hydro will have to,
it will cost it even less to buy the American equivalent of the
rental under the

Mr. Shibley: I wanted to ask you about that. Are these
adjustments ^{once-} This is not a ~~one~~ in-a-lifetime of the lease
situation? These are recalculations made periodically?

Mr. Bradshaw: No, they are done each month.

Mr. Shibley: Each month.

Mr. Bradshaw: Actually, the way it works out Mr.
Shibley is that Hydro pays its rent under the net lease in
American dollars.

Mr. Shibley: Yes. Now, the converse of ~~the~~ what the
example you have given might be, if the American dollar

Mr. Bradshaw: Okay, let me go into that.

Mr. Shibley: Right.

Mr. Bradshaw: Now, suppose it is the other way around.

Mr. Shibley: Yes.

Mr. Bradshaw: And instead of ~~the~~ getting \$45 million,
Canada Square gets \$50 million because the American dollar is
worth more in terms of Canadian dollars, then immediately the
rental under the net lease, instead of being less than \$335,
would be more than ^{the} \$335. Okay, it's got to be ~~it~~ it is based upon
the exchange rate in effect at the date of the take-down, so that

August 1, 1973
5:55 - 6:00 p.m.
B.G.

(Mr. Bradshaw)

that in order to buy \$335 U.S., it costs Hydro an additional amount; Okay, say it costs them 10 per cent more, so that is another 35¢, so it is \$3.70 it pays under the net lease. That leaves less payable for the operating costs and maintenance costs, because the rate of ~~\$4.84~~ \$4.84 is ~~fixed~~ fixed. So, Canada Square has gotten more money to pay for the cost of the building on the closing, when the financing ^{is} closing, but it receives less money each month thereafter for operating and maintenance, etc.

Now, if you did it the other way, if you did it on a one-to-one basis, without any consideration of the exchange rate at the day the financing was done, then ⁱⁿ the first example we ~~take~~ took where the U.S. dollar was worth less than the Canadian, Canada Square would still only get ⁴¹ \$41 million, and the rental under the net lease would not be adjusted either up or down, ~~because because~~ because you would start with that on a one-for-one basis. So Canada Square would be the loser. They get less money and they have no opportunity to pick up the excess over the thirty years. Alternatively, if the U.S. dollar is stronger in terms of the Canadian dollar, then ~~the~~ Canada Square would receive the \$50 million, they wouldn't be penalized by having the ~~excess~~ excess rental over and above the rental payable under the net lease, as compared to the rental payable under the building lease, reduced.

Now, it's a lot easier to do when you ~~write~~ write it out —

Mr. Shibley: Well, I have that material~~s~~ that was written out and perhaps it ~~should~~ should be exhibited right now.

Mr. Bradshaw: Well, I didn't prepare that and I ^{find} ~~thought~~ that rather —

Mr. Shibley: Well then, we will get it from Mr. Coles or Mr. Moog.

Mr. Bradshaw: Mr. Coles understands it.

H-1677-3

August 1, 1973
5:55 - 6:00 p.m.
B.G.

Mr. Shibley: I must say that your explanation creates a different ~~under~~ understanding in my mind ~~than~~ than I had conceived. Do I take it therefore that if the American dollar is at a premium that the amount of money expected to be advanced to Canada Square may exceed the ~~amount~~.

(N Tape H-1678 follows)

August 1, 1973
6.00 - 6.05 p.m.
M.R.

(Mr. Shibley)

~~expected to be advanced in Canada Square was, over the~~
cost of the building, but that over the term of the lease
that excess will be lost to Canada Square.

Mr. Bradshaw: It would be absorbed in the
maintenance cost and operating cost.

Mr. Shibley: Yes, but in the meantime, Canada
Square would have the benefit of the use of that money
reduced over a period of time as it is eaten into by the
excess cost of the maintenance.

And alternatively, if
Mr. Bradshaw: ~~It's~~ It's gone the other way ...

Mr. Shibley: Yes.

Mr. Bradshaw: ...if Canada Square doesn't ...

Mr. Shibley: It suffers a prejudice.

Mr. Bradshaw: That's right. And it's got more
of its own money in the *project*.

Mr. Shibley: So there is still a gamble built
into the situation.

Mr. Bradshaw: No, no, but the thing is that
the one sets off the other, if you base it upon the exchange
rate ~~and the fact~~ in effect the day that the funds are
advanced. So, what you lose ~~the~~ ^{on} the roundabouts you make
up for ~~in~~ ^{on} the swings. You get more money in Canadian dollars
today but you get less over the next 30 years, or alternatively
you get less money in Canadian dollars today but you get more
over the next 30 years.

Mr. Shibley: I appreciate that, but what is of
interest to me and the committee is: ~~let~~ ^{let} us say that the
American dollar is at a premium. Let's say it's worth \$1.10
in Canadian funds. Are you saying that it's expected that
the lending institution then will advance Canada Square
\$50 million on the security of this transaction ...

Mr. Bradshaw: No, No. They'll give them \$45
million U.S.

Mr. Shibley: \$45 million U.S.

Mr. Bradshaw: Yes.

August 1, 1973
6.00 - 6.05 p.m.
M.R.

Mr. Shibley: Converted into Canadian funds -

let's say that's worth \$50 million.

Mr. Bradshaw: Yes.

Mr. Shibley: And even though only \$45 million of

that is incorporated into the building, the \$5 million is

then established as a reserve fund against the future

maintenance cost, that portion ...

Mr. Thomson: Mr. Chairman, ordinarily it wouldn't

be proper to interrupt the counsel cross-examining; I've

been talking to Mr. Coles while Mr. Bradshaw was testifying *for*

the last couple of minutes and I don't think that the ~~any~~

we are not dealing with a matter of credibility, Mr. Shibley.

Mr. Shibley: I realize that.

Mr. Thomson: I think that Mr. Bradshaw is

confused in the last couple of answers he's given and *anyway, as Mr. Coles understands it,*

I don't think that Mr. Bradshaw has recalled

the agreement quite accurately.

Mr. Shibley: I'm so relieved that another lawyer

who ~~has~~ ^{is} involved ~~doesn't~~ ^{doesn't} completely understand it because I've

been struggling to try and understand but ...

Mr. Chairman: I was going to give Mr. McCallum

a chance to agree or disagree and I'm not so sure he

followed it all the way.

Mr. Genest: Well, that's one of the things

that bothered me because I heard Mr. McCallum and Mr. Coles

behind me disagreeing with what they thought the agreement

meant.

Mr. Chairman: Well, I saw Mr. Coles shaking

his head ~~rapidly~~ ^{slightly} so ...

Mr. Shibley: Well, then we shouldn't take it

I gather, ~~and~~ and I think this is fairly important to get this

clear, ...

Mr. Finlayson: Mr. Chairman, Mr. Coles did

suggest that if that calculation of his which Mr. Shibley has

August 1, 1973
6.00 - 6.05 p.m.
M R.

(Mr. Finlayson)

was put in front of the witness it might assist him. ~~Mr. Bradshaw~~

Mr. Shibley: All right then, perhaps we could do that.

Mr. Chairman: I think Mr. Bradshaw said he didn't do that, though.

Mr. Allan: I am wondering, Mr. Chairman, if we might wait until Mr. Coles is on the stand? I'm hoping that Mr. Bradshaw can get away tonight and I think if we get into this and really understand it that he won't get back, or won't get finished tonight.

Mr. W. Newman: Mr. Chairman, I would like to ask Mr. Bradshaw has been on that stand for two days, are we going to go much longer?

Mr. Shibley: Well, let me tell you what I had hoped to cover yet with him and it is simply this: I've culled a lot of things but I wanted to ask Mr. Bradshaw about his interpretation of the words "value of the the appraised value", the use of that phraseology in the agreement, "appraised value"; what is his understanding of the meaning of those words, which I think is a matter of importance. I want to ask him about the lack of a performance bond as it relates to this transaction. I had hoped he might give us some further explanation of the documentation itself, although we would have Mr. McCallum to assist us in that, and I had intended also, and I now do in any event, ask you, Mr. Bradshaw, within the limitations of the solicitor-client privilege that attach ...

Mr. Chairman: That's one thing ...

Mr. Shibley: Well, it doesn't really matter as far as I am concerned but I want ...

Mr. Chairman: At ~~this~~ ^{Supra} time I want the record to be brought up to date but you can proceed now.

Mr. Shibley: Right. I want produced to me because I have yet to receive any documents from Mr. Bradshaw, I want

H-1678 - 4

August 1, 1973
6.00 - 6.05 p.m.
M.R.

(Mr. Shibley)

produced to me from your files, Mr. Bradshaw, correspondence
that you've had with Ames, with the X company, with ~~one~~

H-1679 to follow

August 1st, 1973

6.05 - 6.10 pm

H 1679 - 1

AA

(Mr. Shibley)

~~_____~~
~~_____~~ Equitable, with Hydro and, in fact, any documentation, other than that which you had with your own client. In other words, I want production of non-privileged communications and I'd like it - I don't say that I will have to recall you to review that with you. I just would like it as quickly as possible so that I might have it during the course of my preparation for the examination of other witnesses.

Mr. Bradshaw: What date can I cut off,

Mr. Shibley:

Mr. Shibley: Well, the period of time . . .

MR. Bradshaw: We are producing this stuff at quite a rate.

Mr. Shibley: Well, the period of time that I am interested in is from let's say, April, 1971 to date. Now . . .

Mr. Bradshaw: Well, see, we are producing it now.

Mr. Shibley: Well, you say you are producing it. I've never seen it. You have made reference . . .

Mr. Bradshaw: I am sorry. I didn't mean producing it that way. I meant that we're ~~is~~ working on this matter.

Mr. Chairman: Reproducing it.

Mr. Shibley: I beg your pardon.

Mr. Bradshaw: We are working on this matter. I mean do you want us to copy with every letter we send anybody for the next while. I mean . . .

Mr. Shibley: No, I . . .

Mr. Bradshaw: You see, you say to date. To date is today. And we have got all kinds of files working say on the company "X" financing. Couldn't we have a cutoff?

August 1st, 1973

6.05 - 6.10 pm

H 1679 - 2

AA

(Mr. Shibley)

Mr. Shibley: Well, can you suggest one?

Mr. Bradshaw: Well, could - it's not sufficient if we have a cutoff when the documentation was finalized or . . .

Mr. Shibley: - No, I would like - I would like it to go beyond that Mr. Bradshaw. I am regretting to say to you I feel that it must go - I'd like it to date, I am sorry.

Mr. Bullbrook: How about the commencement of our hearings. Would that be an undue burden or would that ~~be~~ be good enough . . .

Mr. Shibley: Well, you see, Mr. Bullbrook, if it's non privileged material, it may well be that there is correspondence and so on that took place even while this committee was in session and I think that I would like to have that. I don't want it if it is privileged, but I do want it if it is not privileged.

Mr. Finlayson: Mr. Chairman, of course, I've nothing to say on the question of non privileged documents but I am concerned about the confidentiality. ~~As I understand~~ As I understand it, Mr. Bradshaw's partner, Mr. Steadman, is presently engaged in finalizing the documentation and the bond-purchase agreement with Borden and Elliot who are representing company "X". There are ~~presumably~~ presumably drafts of these various documents going back and forward between those two law firms. In addition to that, I suppose they are having meetings and discussions and what have you and certainly, having regard ^{to} the somewhat sensitive nature of this area, I, with respect, wonder what is to be accomplished by producing all those things in that way and I mean, surely there must be some cutoff. What does my friend, Mr. Shibley, hope to learn from the files of Godfrey, Campbell since well, the date this enquiry started?

Mr. Chairman: Is there any way that Mr. Bell ~~Bell~~ could look at these files as long as Mr. Bradshaw under-

August 1st, 1973

6.05 - 6.10 pm

H 1679 - 3

AA

(Mr. Chairman)

took to make them available to you?

Mr. Shibley: Oh yes. Yes, Mr. Bell's been an alter ego of mine for a few weeks.

Mr. Chairman: But it's not a case necessarily of asking Mr. Bradshaw to reproduce all of these documents.

Mr. Shibley: No no. That's . . .

Mr. Chairman: So that if Mr. Bradshaw undertakes to show Mr. Bell or someone from your office, preferably Mr. Bell, because of its confidentiality, I suppose, that should be satisfactory.

Mr. Shibley: Yes, surely, Mr. Chairman. Yes.

Mr. Chairman: You are not asking him to produce those that are privileged documents. Is that difficult for you to do Mr. Bradshaw?

Mr. Bradshaw: When does he want to look at them?

~~Mr. Shibley: Well, I would suggest it take place during the~~

H 1680 - 1 follows

(Mr. Shibley)

Well I would suggest it take place during the interval following Thursday's session, because we will not be sitting on Friday, Saturday, Sunday and I gather we are not sitting Monday, and that would be a convenient time.

Mr. Thomson: Surely you don't need Mr. Bradshaw here on Thursday?

Mr. Shibley: I don't need him. I just need to have his documents.

Mr. Chairman: I hope to be able to release Mr. Bradshaw this evening.

Mr. Shibley: And the only thing that is ~~worrying~~ worrying me now is ~~as~~ as I have mentioned, aside from the documents I want him to produce, I had intended to ask him about this other area; namely the matter of what is meant by 'appraised value'..

Mr. Chairman: Let's go on to that then. Is there any problem in getting those documents?

Mr. W. Hodgson: We are going to be a couple of hours on them.

Mr. Chairman: Oh I don't think so.

Mr. W. Hodgson: Yes, Sure.

Mr. Henderson: I would suggest likely another day.

Mr. W. Hodgson: Do you want to go home tonight?
What about adjourning and coming back tomorrow?

Mr. Renwick: Mr. Chairman I am in the dark. What is Mr. Bradshaw's convenience? He has come in from holiday to be here yesterday and today. Is that correct?

Mr. Chairman: That is what I understand. I understood when we started with him yesterday and again when we adjourned last evening that we expected to finish with him at noon ~~ton~~ today so I don't want to be unfair to him and I think we are being a little unfair because I was just noticing in our examination last night that the suggestion was that we would be through with him by noon today.

Mr. Renwick: Could I ask Mr. Bradshaw about providing counsel over the weekend with the documentation. From your point of view does that require you to be in town for that?

Mr. Bradshaw: I think Mr. Thomson can probably organize it.

Mr. Shibley: When are you going to be back?

Mr. Bradshaw: Well I wasn't planning to be back until the end of the holiday.

Mr. Shibley: Which was when?

Mr. Bradshaw: In August.

Mr. Renwick: But it would be this month?

I think we will here.

Mr. Henderson: As long as he is back by December.

Mr. Bradshaw: You said you wanted that material before that.

Mr. Shibley: I'd like the material. What I am thinking of Mr. Bradshaw is that perhaps we could leave off these topics now and if it becomes necessary to call you back later on...

Mr. Renwick: I take it Mr. Chairman that it would be possible without inconveniencing Mr. Bradshaw any further, for the committee to adjourn now, that Mr. Bradshaw can go on his holidays, that Mr. Thomson in conjunction with his associates that Mr. Bradshaw's associates ^{CAN} produce the documentation and that if we can go on with ~~the~~ their evidence and if necessary we can recall Mr. Bradshaw when he returns from his holidays without...

Mr. Chairman: Mr. Bradshaw is a source of very valuable information to us and I think Mr. Shibley's point is that he has yet much that he could ask him and for that reason doesn't want to ...

Mr. Shibley: I think you can get away today.

Mr. Bradshaw: Excuse me. I could, without-- I have got a problem later tomorrow afternoon, but I could be

Aug. 1/73
6:10-6:15 pm
PLG

(Mr. Bradshaw)

available in the morning. I could stay over in the morning if that is going to help the committee. I mean, if you want to pursue those things and finish. I understand your problems too and I am...

Mr. Shibley: You see my difficulty in part is this; I don't want to sort of hold you over until tomorrow then look at your documents and find that I have to have you back here again anyway and I am really concerned not to inconvenience you in that respect. I think the better bet might be just to...

Mr. W. Hodgson: How were you going to proceed tonight then if you can't proceed tomorrow morning?

Mr. Renwick: We are not going to proceed tonight.

Mr. W. Hodgson: I mean we have this generous offer from Mr. Bradshaw. He wants to get these questions that are pertinent questions to the committee and he ~~is~~ is willing to come tomorrow morning, why not let him come and get them over with?

Mr. Thomson: I think Mr. Bradshaw would like to get the matter over with. It isn't a simple way of proceeding. Let me say that the Chairman recognizes that it is a difficult position to put a lawyer in and I think he would like to be done with it.

Mr. Shibley: Well, whatever suits Mr. Bradshaw is suitable for me.

Mr. Thomson: I shouldn't really be speaking for him. I am talking about his own personal convenience. Can I have a couple ~~more~~ of moments or something and we will decide this, because I am not trying-- I am not finding it ~~like~~ a problem being here.

Mr. Chairman: I appreciate that Mr. Thomson. If you want to speak to Mr. Bradshaw.

Mr. Bradshaw: If Mr. Bell wants ~~me~~ to come down now I can ~~get the documents but I don't think you will find~~ there are very many ~~there are some that are confidential~~ though because I mean the name of Company X

Tape H 1681 follows

August 1, 1973
6.15-6.16 p.m.
M.F.

H - 1681 - 1

(Mr. Bradshaw)

but I don't think you will find there are very many.

Mr. Shibley: All right.

Mr. Bradshaw: There are some that are confidential though, because I mean the name of company X is strewn throughout the financing documents.

MR. Shibley: We know that.

Mr. Chairman: Well, again, in ~~view~~ view of the position the committee has taken, we are certainly not going to ask you to disclose that at the present time, so you -----

Mr. Bell: We know the name.

M r. Bradshaw: Oh I know you know.

Mr. Chairman: Mr. Bell knows that so you can make arrangements to edit that.

Mr. W. Newman: Mr. Chairman, ^{while they are having their conference,} are my notes I take here privileged information, my own written notes?

Mr. Chairman: I don't think so.

Mr. W. Newman: He is not going to call me to the stand because I have made some ^{rather pertinent} written notes.

Mr. Thomson: Come what may ^{we} ~~we~~ will be back here tomorrow, but Mr. Bradshaw will have to be released tomorrow afternoon ~~or tomorrow~~.

Mr. Chairman: Well I was doing my best to get him released tonight but we are adjourned until 10 a.m. tomorrow morning.

The committee adjourned at 6.16 p.m.

INDEX TO EXHIBITS

Exhibit	Page	Description
196	1664 - 2	Draft agreement prepared by E. Houser, Sept. 15, 1972, between Hydro and Canada Square.

APPEARANCES

Committee members:

J.N. Allan
J.E. Bullbrook
I. Deans
M. Gaunt
L.C. Henderson
R.G. Hodgson
W. Hodgson
J.P. MacBeth (Chairman)
W. Newman
J.A. Renwick
G.W. Walker

Clerk of the committee:

Paul Moore

Committee counsel:

R.E. Shibley, QC

Assistant to committee counsel:

J.P. Bell

Ontario Hydro counsel:

Pierre Genest, QC
James McCallum, QC

Canada Square counsel:

Douglas Laidlaw, QC
Blair Cowper-Smith
G.D. Finlayson, QC

Campbell, Godfrey & Lewtas and representing Mr. Moog

J.A. Bradshaw

Representing Mr. Bradshaw

Claude Thomson

List of exhibits introduced during this sitting
appears on the next page.

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Thursday, August 2, 1973

Morning session

1682-1713

August 2/73
10.17-10.25 a.m.
E.M.

LEGISLATURE OF ONTARIO
SELECT COMMITTEE - HYDRO HEADQUARTERS

The committee met at 10:20 o'clock, a.m. in the members' board room.

Mr. Chairman: Ladies and gentlemen, we will call the meeting to order. And rather than proceed immediately with Mr. Bradshaw, I think Mr. Genest has some information that he can give us right from where he is.

Mr. Genest: Mr. Chairman, I have obtained in the form of a letter from Mr. Nastich, which ^{Mr.} Shibley I think would like to make an exhibit, the chronology of the Hydro Swiss financing that has been the subject of some questions. ~~Documents~~ I have enough copies for the members of the committee; perhaps they could be distributed.

Mr. Chairman: I will ~~mak~~ mark it as Exhibit 197. I suppose the document speaks for itself, Mr. Genest ^{it} doesn't need any ---

Mr. Genest: I don't know if you want me to read it, Mr. Chairman.

Mr. Chairman: I don't think so at this time.

Mr. Genest: No. The only thing that perhaps I should add is that ^A this sets out the chronology - the only thing I should add that was inquired of us as to whether Hydro was told whether there was any connection between their taking up this Swiss financing and the financing for the head office. I am informed by Mr. McCallum that early in the negotiations - we have no method of pinpointing ^{the} ~~the~~ date, it was probably in August or early September - Mr. McCallum was told by representatives of Canada Square that the Hydro financing had in fact interfered

August 2/73
10.17-10.25 a.m.
E.M.

(Mr. Genest)

with Mr. Moog's plans to get financing in Switzerland.

Mr. Chairman: Thank you, Mr. Genest.

Mr. Handerson: But not in July.

Mr. Genest: No, I don't think Mr. McCallum meant with anybody from Canada Square, I can't pinpoint the date; all I can say, the only help I can be on that is that it was early in the negotiations. And I think it had to be after August. After early August. You will see from the chronology the Union Ban_k of Switzerland informed Hydro on August 7th that a place in the lineup, or the queue, as it has been called, had been reserved for Ontario Hydro. August 1st, in fact, they confirmed it through their Montreal office that a bond issue could be floated for Ontario Hydro.

Mr. Chairman: Anything else, Mr. Shibley or Mr. Genest?

Mr. Genest: I think that fulfils the undertakings that I had given to the committee.

Mr. Chairman: Thank you, sir.

Mr. Shibley, what is the line of your questioning with Mr. Bradshaw now? I am reminded that we released him from his oath, that ^{was} ~~is~~ all, while he was ---

Mr. Bradshaw: I wonder while I am still released, ~~xxxxxxx~~ and thank goodness I was because I ---

Mr. Chairman: You made a few mistakes, *did you?*

Mr. Bradshaw: --- made a few mistakes and the Chairman asked me last evening whether I would prepare a little schedule to try and illustrate ~~my~~ my remarks and review it with you. I have done that, I am sorry it isn't typed, but it was done over the night time period rather than the day time period.

August 2/73
10.17-10.25 a.m.
E.M.

H-1682-3

(Mr. Bradshaw)

So with your permission perhaps we could pass this out to the members of the committee and we could go over it before I am put back under oath.

Mr. Chairman: All right. You have enough copies for everybody?

Mr. Bradshaw: I have copies here.

Mr. Chairman: Would you distribute those, please?

Do you want to make this an exhibit? I suppose that is the easiest way, although it is not coming to us under oath, but I guess that doesn't matter. Exhibit 198; 197 was the chronology that Hydro prepared.

Mr. Thomson: This is what Mr. Bradshaw was working on until two in the morning.

Mr. Chairman: Well, I'm grateful, I don't know whether I am any better off, though.

Mr. Bradshaw: I would like to review it with ^{you, if that} ---

Mr. Shibley: Would it also help you to have those calculations that were made ---

Mr. Bradshaw: They are part of this.

Mr. Shibley: Pardon?

Mr. Bradshaw: They are part of this.

Mr. Shibley: Oh, they are part of it.

Mr. Chairman: I am relying on Mr. Allan to understand it.

Mr. Allan: Don't be too sure.

Mr. Bradshaw: Just to go back

(Tape 1683 follows)

Aug/2/73
10.25 to 10.30 am
fvk

~~Mr. Bradshaw:~~
~~Just to go back very quickly. The thing~~
that ~~made~~ Mr. Bulbrook draw in ~~his~~ his breath and the thing that
made Mr. McCallum and Mr. Coles buzz at the back of the room, ~~and~~
~~as~~ as the result of which Mr. Thomson spoke up, was that
the maximum amount - there is a provision in the agreement - that
under the arrangements with Hydro, the maximum amount of the
mortgage cannot exceed the equivalent in Canadian funds of \$45 million.
And in my examples, I was describing, I had indicated that it would
be possible to get more than \$45 million in Canadian funds if the
rate of exchange had gone that way. I'm sorry about that. The
only explanation I have for that is that that was a matter ~~and~~ that
was negotiated with the solicitors for Hydro and ~~that~~ I think that
I was ^{probably} not involved personally in the negotiations by the time they
had got to that stage. ~~Something~~

Mr. Shibley: Before you leave that, Mr. Bradshaw, I take
it, therefore, that at one point in time, it was the subject of
negotiation on the part of Canada Square that the arrangements
should be such as would permit them to realize either more, or less,
according as the exchange rate was a variable -

Mr. Bradshaw: Yes.

Mr. Shibley: - than the actual cost of the building, -

Mr. Bradshaw: Yes.

Mr. Shibley: -that had been the negotiating posture but,
in the ultimate result, that was denied by ~~the~~ Hydro and it was
included as a provision of the agreement that the amount to be
raised by mortgage should not exceed the actual cost ^{of} the building.

Mr. Bradshaw: Should not exceed ~~but~~ ^{the} equivalent of
\$45 million Canadian funds.

Mr. Shibley: Yes. But that, at one point in time,
Canada Square was negotiating for the kind of arrangement which
you exemplified in your outline yesterday.

Mr. Bradshaw: Yes, where there was a possibility of the

Aug/ 2/73
10.25 to 10.30 am
fvk

(Mr. Bradshaw)

amount translated into Canadian funds being more than \$45 million. I don't know whether ~~that would~~ be more than the cost of the building because until the building's built nobody knows what the cost is going to be.

Mr. Shibley: Yes. But counsel for Hydro rejected that and, as part of their negotiating effort, forced back Canada Square to a position where only the equivalent in the dollars^s required to build the structure would be advanced.

Mr. Bradshaw: No, only the equivalent of \$45 million Canadian. There is no provision that it would cost more, that they ~~would~~ ^{will} allow us to go any higher.

Mr. Shibley: All right. Is there any provision that ~~including interim financing,~~ if the building costs, ~~including all proper costs,~~ are less than \$45 million Canadian that the amount of the mortgage is to be less?

Mr. Bradshaw: The costs? Can I deal with that one?

Mr. Shibley: All right, sure.

Mr. Bradshaw: You said you were going to deal with that but I would like to go over this first.

Mr. Shibley: Okay, good.

Mr. Bradshaw: First, I would like to go over the assumptions. The interest rate for the permanent financing is not less than 8 per cent per annum ~~and~~ ^{and} all I'm doing there is eliminating the adjustments that would have to be made if the interest rate was less than 8 per cent per annum. The amount required to fully amortize the permanent financing is not less than US \$3.35 per square foot per year. That is, there is a provision in the net lease that the rental under the net lease would be reduced from ~~the~~ ^{the} US \$3.35 to the amount required to amortize the permanent financing if, indeed, the amount required to amortize the permanent financing is less than US \$3.35 per square foot. Assumption three is the permanent financing is arranged in US funds. ~~Four~~ ^{Four} The maximum amount of the permanent financing is not reduced through the operation of the ~~same~~ appraisal letter. I guess we're going to talk about that later, Mr. Shibley.

Aug. 2/73
10.25 to 10.30 am
fvk

Mr. Shibley: Yes.

Mr. Bradshaw: Five: There is no limitation on the maximum amount of the permanent financing under section 29 of the agreement. And this is for the purposes of the ~~of the agreement~~

~~of the agreement~~

(Tape H-1684 follows)

August 2, 1973
10.30 - 10.35 a.m.
M.R.

(Mr. Bradshaw)

— first three examples. This is the one that I missed yesterday. This, Section 29, is the one that provides in the second part of the section that ~~in~~ in no event can this permanent financing exceed the equivalent of Can. \$45 million. And also for the purposes of these examples I'm just completely disregarding the \$25,000 for the recessed areas and I'm also disregarding the fact that Hydro participates in the rental in the commercial areas.

Mr. Shibley: All right.

Mr. Bradshaw: Now, the terms of the agreement that are applicable are Section 28, which provides then that the rental under the net lease will be U.S. \$3.35 per square foot per year.

Section 31, that the rental under the lease-back, that's when Hydro gets it back again, will be the Canadian equivalent of U.S. \$3.35 based on the rate of exchange on the date of the first draw in the permanent financing. And this is really - the object of this - this is what Mr. Shibley asked me to explain, is why it's that rate rather than, say, the rate at par.

Under the assumptions that I've set ^{out} ~~and~~ the rental under the agreement would be — under the lease-back — would be the Canadian equivalent of U.S. \$3.35 and the rental under the building lease ^{would} ~~be~~ be Canadian \$4.84 per square foot per year.

Now, that is definite. I mean, that doesn't depend on exchange rates or anything like that, the building lease ^{provides} ~~is~~ \$4.84.

Now, if you turn over the page there are two pages of my calculations and then there are three pages that were prepared by Mr. Coles, which were used during the negotiation of the contract. Mr. Coles prepared them and ~~he~~ delivered them to Mr. Houser and I believe he delivered them to Mr. Nastich.

August 2, 1973
10.30 - 10.35 a.m.
M.R.

Mr. W. Newman: Mr. Chairman, I am confused. You ~~can~~ used the figure ~~4.84~~ \$4.84. Is that the maximum figure that Hydro will pay per square foot?

Mr. Bradshaw: No. That is the rental under the building lease and it can be reduced if—it can be reduced under the agreement if the appraised value of the ...

Mr. W. Newman: I see.

Mr. Bradshaw: ...building project...

Mr. W. Newman: The maximum is ~~4.84~~ \$4.84.

Mr. Renwick: It is the maximum.

Mr. Bradshaw: Well, then there is escalation on top of that but that's not in the ~~1973~~ initial year. Yes.

Mr. Renwick: It is maintenance ...

Mr. Bradshaw: Yes, it is maintenance.

Mr. Shibley: Just while we are on that: The ~~4.84~~ \$4.84 is subject to the following variations. One would be escalation, as to maintenance, and two would be variation in cost of the building? I'm sorry, the appraised value, just to keep the terms accurate, appraised value of the building. Now, what I'd like to know is whether, ~~4.84~~ is the ~~3.35~~ \$3.35 incorporated into the ~~4.84~~ \$4.84, such that the fluctuations as to that figure would also effect a fluctuation of the ~~4.84~~ \$4.84?

Mr. Bradshaw: That's a little difficult to answer in that form, Mr. Shibley. I think perhaps if I go through the examples you will be able to see what happens.

The exchange rate fluctuations result after the thing starts; exchange rate fluctuations do result in a change in the effective cost to Hydro, of the building - the leased premises.

Mr. Shibley: Can I ask you to direct your mind to two things? There's a point of time when the draw-down is taken on the permanent financing and whatever is the differential; I'd like you to explain that impact on the arrangement.

August 2, 1973
10.30 - 10.35 a.m.
M.R.

(Mr. Shibley)

And then there are the points of time month by month when the amortized payments are made and what is the effect vis-a-vis that?

Mr. Bradshaw: We'll see that in these examples.

Mr. Shibley: Okay. So if you can deal with the two things, I think it would help the committee.

Mr. Bradshaw: Let me add one thing, you were jotting down there, Mr. Shibley, the things that could affect the ~~total~~ \$4.84.

Mr. Shibley: Yes.

Mr. Bradshaw: Under my assumptions nothing else ~~could~~ but the fact is if the permanent financing is arranged,

H-1685 to follow

Aug. 2 1973
10:35 - 10:40 am
JLP

(Mr. Bradshaw)

~~the fact that the rate of exchange on the date of the first draw is \$1.00 equals \$1.00; and the proceeds then will be, Canada Square will receive U.S.\$45 million, and they exchange in \$45 million Canadian funds.~~
~~at~~ ^e an effective rate of less than 8 per cent, than^e
 the \$4.84 has been reached too.

Mr. Shibley: Right.

Mr. Bradshaw: Okay, then let's look at the examples.

What I've done is, I've broken up Mr. Coles' figure. You can look at Mr. Coles figures for the back-up, but I think if we deal with the way I've broken it up first, and then if anybody is concerned about how I got these figures, we can go to the back.

But example A, I'm assuming that the rate of exchange on the date of the first draw is \$1.00 equals ~~to~~ \$1.00; and the proceeds then will be, Canada Square will receive U.S.\$45 million, and they exchange ^{to} ~~in~~ \$45 million Canadian funds. The rental under the building lease, and all these figures, as I have point^ed out at the top, are calculated in Canadian Funds.

The rental under the building lease would be \$4.84. The rental under the lease-back is the Canadian equivalent of the rental under the net lease. The rental under the net lease is US \$3.35; the Canadian equivalent at par, which is the rate of exchange on the first draw, is Can. \$3.35. That means that the difference between the rental under the building lease, and the rental under the lease-back is \$1.49. That \$1.49 is what Canada Square has to pay maintenance, operating costs, etc.

In column 4 is the Canadian equivalent of the cost to Hydro of buying the rental of US \$3.35 under the net lease. Because, remember, Hydro pays rent under the net lease in US funds, and Canada Square pays back under the lease-back the Canadian equivalent of that US rent. So the total rent then, ~~under the~~ the net amount between the building lease and the lease-back, plus the rental payable by Hydro in the net lease, all converted into Canadian funds, is \$4.84 which is what ~~we were~~ ^{we want} hoping it would work out to be.

Aug. 2, 1973
10:35 - 10:40 am
JLP

(Mr. Bradshaw)

Now what happens ^{if} the rate ^{of} exchange goes so that US \$1.05 equals Can. \$1.00? This is after the permanent financing is closed now, Mr. Shibley.

What we've done, I'm using this A as sort of the basis and then we can discuss what happens if the exchange rate drops. But A's simple because ~~it's~~ ^{drawn} it's par at the date that the funds are ~~drawn~~ down.

If ^{\$1.05} the rate goes to US ~~\$1.05~~ equals Can. \$1.00, the rental under the building lease doesn't change; the rental under the lease-back, which is fixed on the basis of the Canadian equivalent of the rental under the net lease, at the date of the first draw, doesn't change, ^{5/6} the net amount doesn't change, ^t the amount ^{has} Canada Square in effect ^{to} keep to cover its operating costs. But it costs Hydro, instead of Can \$3.35 to buy US \$3.35, it only costs \$3.18, so the rental when the exchange rate has gone in favour of Canada, ~~it~~ drops to \$4.67. Is everybody with me there?

Mr. Bullbrook: No, I am not; on the last thing, the \$3.18 payable ^{is} the amount that it's going to cost Hydro to buy American funds equivalent to \$3.35.

Mr. Bradshaw: Right.

Mr. Bullbrook: Now, is that fixed, or does that fluctuate month-to-month?

Mr. Bradshaw: Oh no, that's the fluctuation.

Mr. Bullbrook: That's the fluctuation?

Mr. Bradshaw: You see, because the rate of exchange under A 1 has changed to US \$1.05 equals Can. \$1.00, ~~the~~ it's costing Hydro \$3.18 instead of \$3.35.

Mr. Bullbrook: That's based on the divergent rate at the time the funds are taken down.

Mr. Bradshaw: No, no, Mr. Bullbrook.

Mr. Bullbrook: It's not?

Mr. Bradshaw: No. We haven't got to that yet.

Mr. Renwick: ^{It} ~~it~~ fluctuates month to month, the calculation has to be ~~made~~.

Mr. Henderson: Jim, I wonder, would it help us if he went to the take-down because I'm a little mixed up.

Mr. Bradshaw: Bullbrook: All right, well maybe I

Mr. Bradshaw: We will deal with the next one, Mr. Henderson, when we do the take-down, at a different rate than par. But I'm only dealing with the example where it's par at the moment.

Mr. Shibley: We are dealing with amortized payments for the moment.

Mr. Bradshaw: And I am assuming they are made once a year.

Mr. Shibley: All right, fine.

Mr. Bradshaw: But, you know, they are, in fact, done month by month.

Mr. Bullbrook: I see. You have said, Mr. Bradshaw,

Mr. Henderson: I don't have the first take-down clear in my mind.

Mr. Bradshaw: The take-down is at par in this case.

Mr. Henderson: The other example, though, that's what I'm wondering, do you have an example of a

Mr. Bullbrook: Well, we're betting to that.

Mr. Bradshaw: Yes, I haven't got to that.

Mr. Chairman: Let us proceed.

Mr. Bullbrook: Well, you say, "let us proceed," Mr. Bradshaw said, "Do you all understand?" and I'll be quite frank I was a little confused.

Mr. Chairman: I mean at this time let him proceed.

Mr. Bradshaw: Let us go to the other assumption, say the Canadian \$1 weakens in terms of the US \$1 so that US \$0.95 equals Can. \$1.00. Again, there is no change in the lease, the rent under the building lease or in the lease back because that was fixed, the lease back was fixed at the time that the

(Tape H-1686 follows)

August 2, 1973
10.40 - 10.45 a.m.
M.R.

(Mr. Bradshaw)

~~in the lease in the building lease to in the lease-~~
~~back because that was fixed.~~ The lease-back was fixed at
the time that the proceeds were advanced. So there is no
change in the amount that Canada Square has to cover its
cost

However, instead of costing ~~xxx~~ \$3.35 Canadian
to buy \$3.35 U.S., it costs \$3.52 Canadian to buy \$3.35 U.S.
So the total rent is \$5.01. Okay? Hydro has as in accordance
with the agreement, assumed the exchange ~~xxx~~ risk. Now that's
a nice simple one and if we could guarantee that the dollars
~~mm~~ were going to be at par on the day we take down the first
draw, Canada Square takes down the first draw, there would be
no argument.

Mr. Shibley: Right. Okay.

Mr. Bradshaw: Okay, on to B. B is the case where
the U.S. dollar is not worth as much as the Canadian dollar.
So it takes \$1.05 ~~xxxx~~

Mr. Shibley: At the date of take down?

Mr. Bradshaw: ~~at~~ at the date of take down. It takes
\$1.05 U.S. to buy \$1.00 Canadian.

Now, the rental under the building lease is still
\$4.84 Canadian. The rental under the lease-back is the Canadian
equivalent, based on the exchange rate at the date of the take
down, that's \$1.05 equals \$1.00, of \$3.35 U.S. Now that is
\$3.18, ~~and~~ Okay?

Mr. Shibley: Mm-mmh.

Mr. Bradshaw: So the rental under the lease-back
is \$3.18 rather than \$3.35. I mean, that's what the agreement
says, Mr. Henderson, that the rental under the lease-back
is the Canadian equivalent based upon the exchange rate in
effect at the date of the first draw of the rental under the
net lease.

So, that leaves \$1.66 to Canada Square for its
maintenance and operating cost but you will notice that the

August 2, 1973
10.40 - 10.45 a.m.
M.R.

(Mr. Bradshaw)

Canada Square under proceeds in that case doesn't receive \$45 million Canadian. The \$45 million U.S. converts into \$42,750,000 Canadian. So, although Canada Square has - is receiving a larger share of the rental to cover its costs, it didn't get as much money. It's ~~not~~ got more of its money in the project so that the increased amount, the difference between \$1.49 and \$1.66, is going to, in effect, amortize \$2,250,000 which Canada Square didn't get under the mortgage.

Mr. Shibley: Mr. Bradshaw, may I ~~not~~ stop you there: It would - Canada Square would receive \$42,750,000 in U.S. funds ~~~

Mr. Bradshaw: No, Canadian funds, Mr. Shibley.

Mr. Shibley: Oh, in Canadian funds.

Mr. Bradshaw: \$45 million U.S., under the assumption that \$1.05 equals \$1.00, would be \$42,750,000. It still gets \$45 million U.S., but when it hustles on down to the bank it can ~~only~~ get ~~out~~

Mr. Shibley: All right. I see your point.

Mr. Henderson: I picked it up there, too.

Mr. Bradshaw: Now the rental - the cost under the net lease, this is \$3.18 that is shown here, is the cost to Hydro of buying \$3.55 U.S. and ~~at~~ at the rate of exchange at the time of the first draw that costs \$3.18, total \$4.84, so Hydro pays \$4.84.

Mr. Bullbrock: All right. Now, Mr. Chairman, would you permit me? I think now my question becomes relevant. Maybe my colleague from Riverdale will help me. That \$3.18, is that based on the take-out rate of - I'm sorry, the rate of exchange differential at the time of the take-out or based on the actual rate of exchange at the time that the net lease payment is to be made?

Mr. Bradshaw: Let me go on and show you the examples.

August 2, 1973
10.40 - 10.45 a.m.
M.R.

Mr. Bullbrook: All right. Okay. I'm again

premature, am I?

Mr. Bradshaw: Yes. *Because, one*

Mr. Bullbrook: All right. That's fine.

Mr. Bradshaw: If you look down below, Mr. Bullbrook,
now what happens is

Mr. Bullbrook: I don't want to take you
further. You go ahead. You are now saying to me, "You are
just a little bit premature, Mr. Bullbrook, okay? Go ahead."

Mr. Bradshaw: Can I go?

Mr. Bullbrook: Sure. I hesitate to interrupt.

Mr. Bradshaw: ~~Chairman~~ Chairman: Go, man, go!

Mr. Bradshaw: *No, no. That's fine.*
Now, we had an exchange rate of

\$1.05 U.S. was equivalent to the Canadian dollar. Now,
what happens if the rate goes to \$1.08 U.S. equivalent to \$1
~~Canadian~~ Canadian? The rental under the building lease
is still \$4.84 and the rental under the lease-back, which was
~~fixed on the basis of the exchange rate at the date of the~~
first

August 2/73
10.45-10.50 a.m.
E.M.

H-1687-1

(Mr/ Bradshaw)

~~rental under the building lease is still 4.84 and the rental~~
~~under the lease back~~, which was fixed on the basis of the exchange
rate at the date of the first draw¹⁵ still 3.18, so Canada Square
still has \$1.66 to cover its operating costs, maintenance costs
and amortize its share of the cost of the building. But instead
of costing \$3.18 to buy ~~U.S.~~ \$3.35, it only costs Hydro ~~13.18~~
CANADIAN \$-Can.
\$3.08 ~~to buy~~ to buy ~~U.S.~~ \$3.35 U.S.

So the rental is reduced by a dime, you see. There
has been an exchange fluctuation in favour of the Canadian dollar
and the rental has been reduced, the effective rental has been
reduced to \$4.74.

Now, what happens if there is an exchange fluctuation
the other way?

Mr. Shibley: Just what is causing confusion to me
is, you say it cost \$3.08 to buy \$3.35 and yet I was reading it
as costing \$3.08 to buy \$3.18.

Mr. Bradshaw: No, no, \$3.18 was ---

Mr. Shibley: So we are still back to the U.S. \$3.35
as basic to the first portion of your tabulations, it is the
same \$3.35 we are talking about?

Mr. Bradshaw: That was my assumption.

Mr. Shibley: Okay, all right, I've got you now.

Mr. Bradshaw: You see, you have still borrowed U.S.
\$45 million.

Mr. Shibley: Yes.

Mr. Bradshaw: And I am assuming that \$3.35 is the
amount required to amortize.

Mr. Shibley: Okay, I've got you.

Mr. Bradshaw: That amount. And I might point out
that Mr. Coles tells me that at eight per cent that is a little

August 2/73
10.45-10.50 a.m.
E.M.

H-1687-2

(Mr. Bradshaw)

more than is necessary.

Mr. Shibley: Okay, that is fine, okay.

Mr. Bullbrook: Would you help me on this now?

I THINK I am to the point and I don't want to use this phrase to offend, but am I correct in assuming what you ^{have} ~~have~~ done is try to take away as much as possible, to use your phrase of yesterday, "the element of the gamble", but that really there still remains an element of a gamble in connection with the fluctuation of the amounts required to be paid under the net lease?

Mr. Bradshaw: Oh, the crap shoot I was talking about I haven't come to yet.

Mr. ~~Shibley~~ Bullbrook: I see. Well, can you help me on this ---

Mr. Bradshaw: The understanding was, I think, though, Mr. Bullbrook, right from the very beginning, that if the borrowing - it was certainly in the proposal, you know, that is the only basis I can tell you about it, ~~but~~ it was in the proposal - and it went into the agreements, was that if the borrowing was in foreign currency, that Hydro would assume the exchange fluctuations. That was the OISE pattern, that was the thing, that was in the deal from the very beginning, that Hydro was assuming the exchange risk. B(2) just shows that exactly, because if notwithstanding the rate of exchange as at the date the funds were advanced, was at ^{U.S.} ~~at~~ ~~1~~.05 equals Canadian ~~1~~1.00, goes to ~~1~~1.02, so that U.S. dollar strengthens, then there is no change in the building lease rent, there is no ~~can~~ change in the lease-back because that was fixed with reference to the ~~d~~ rate of exchange at the date of the draw-down, there is no

August 2/73
10.45-10.50 a.m.
E.M-

H-1687-3

(Mr. Bradshaw)

exchange in the amount that Canada Square gets, but it cost ~~1/3.28~~ ^{Canadian} ~~to buy~~ ^{U.S.} ~~to buy~~ ~~1/3.35~~, so the rental payable by Hydro at a time when the exchange rate has changed in favour of the U.S. dollar, would be \$4.94.

Mr. Bullbrook: So that in effect, the formula assures that Canada Square will get back either immediately or over the amortized period the equivalent of ~~\$45 million~~ ^{Canadian} \$45 million, right? Am I correct thus far?

Mr. Bradshaw: I think ---

Mr. Allan: That's really not the assumption.

Mr. Bullbrook: Well, bear with me just for a moment because this really is important for my understanding. The formula is such, as I understand it, that Canada Square will get back either immediately or over the 30-year amortization period, ~~\$45 million~~ ^{Canadian} \$45 million.

Mr. Allan: Mr. Chairman, isn't the vital figure \$45 million American - U.S.

Mr. Bullbrook: All right, ~~U.S.~~ ^{American} \$45 million, okay. That helps greatly.

Mr. Bradshaw: But let me go on to the next example, I am sorry, Mr. Bullbrook, and then I will show you how it can be less than \$45 million. That was a mistake I made yesterday ---

Mr. Bullbrook: All right.

Mr. Bradshaw: --- I'd like that, because I know that - I mentioned it before you came in this morning, ~~I know~~ ~~you had jumped out of your chair that~~ and I wanted to

(Tape 1688 follows)

Aug/ 2/73
10.50 to 10.55 am
fvk

(Mr. Bradshaw)

~~... or I mentioned it before you came in this morning. I~~
knew you would jump out of your chair and I wanted to try and straighten it out.

Mr. Shibley: He does that all the time.

Mr. Bradshaw: The 'C' is where, on the date of the drawdown, the US .95 cents equals the Canadian \$1.00. The US currency is stronger than the Canadian.

Now, forgetting about this 'C' in the way I've described here, forgetting about this provision that you can't get more than the equivalent of \$45 million Canadian, this is the situation that made you jump. I have to explain this to show what can happen & before I go on to the other. But, if that is the case, then the US \$45 million ^{\$47,250,000} converts into ~~122,550~~ Canadian. The rent under the building lease is ~~US~~ \$4.84. The lease-back is the Canadian equivalent of \$3.35 ^{Canadian} when it costs \$1.00 to buy .95 cents US so, under the lease-back, the rent in Canadian becomes \$3.52. It takes \$3.52 Canadian to buy \$3.35 US. That means that the amount for Canada Square for maintenance, etc., is \$1.32. You see, it was \$1.49 when it was at ~~xxxx~~ par. If the proceeds were less it's \$1.66. If the proceeds are more, it's reduced. It's \$1.32. The rental under the net lease that Hydro is obliged to pay, it costs Hydro more than \$3.35 Canadian to buy \$3.35 US. In fact, it costs \$3.52 Canadian right from the outset. The total is \$4.84. So, at the beginning, Hydro is paying \$4.84. It is only taking the risk of exchange fluctuations after the drawdown.

We'll assume then, in one, the rate goes from .95 cents to ~~x25x~~ .98 cents American to equal \$1.00 Canadian. Then you'll see then that the building lease-rent stays the same. The lease-back rent stays the same because that is based on the rate of exchange at the date of the drawdown. The amount that Canada Square gets is the same. The amount it costs Hydro is reduced because now \$1.00 Canadian buys .98 cents US so that the rental payment by Hydro, in those circumstances, is \$4.74. What happens if the rate goes the other way? Instead of being .95 cents US equals

Aug. 2/73
10.50 to 10.55 am
fvk

(Mr. Bradshaw)

\$1.00 Canadian it's .92 cents US equals \$1.00 Canadian. Again, the building lease, the lease-back and the net to Canada Square stays the same but it costs Hydro \$3.62 to buy \$3.35 US so the rental there is \$4.94.

Now, 'C' was the thing that, during the negotiations, Hydro objected to. They said: "We don't want Canada Square to be able to borrow on the security of the Hydro building on the lease more than the equivalent of \$45 million Canadian. So, if the exchange rate - if the US dollar is stronger in terms of the Canadian dollar, in that case we're ~~not~~ going to limit you as to the amount of US dollars you can borrow.

If you turn over to the next page I'll deal with that.
"The rate of exchange on the date of the first draw is US .95 cents equals Canadian \$1.00."

Then section 29 operates, which is the section I referred you to before:

"To reduce the amount of the permanent financing to US ~~\$45~~ \$42,750,000."

Canada Square can't borrow \$45 million US because that would be equivalent to \$47 million Canadian so, they could only borrow \$42,750,000 US.

~~Section 28, of the agreement, which provides that the~~
~~rental under the lease~~

(Tape H-1689 follows)

August 2, 1973
10:55 - 11:00 a.m.
B.G.

(Mr. Bradshaw)

~~Section 28~~ Section 28 of the Agreement, which provides that the rental under the net lease cannot exceed the amount required to fully amortize the permanent financing, ~~operates~~, to reduce the rental under the net lease; and this is my horse-backed figure, I have just reduced the rental by 5 per cent here. It wouldn't be quite that because the amount required to amortize ~~\$42,750,000~~ \$42,750,000, at 8 per cent wouldn't be just 95 per cent of the amount required to amortize \$45 million at 8 per cent.

~~You~~ You would have to go into the amortization tables and I was in too much of a ^srush to do that.

That means then, that the rental under the net lease is reduced. But then that means that the rental under the lease-back ~~would~~ ^{could} also be reduced, because it's the Canadian equivalent, based on the rate of exchange ^{at} the day of the draw, to the rental in U.S. funds under the net lease.

This would leave a larger net to ~~Canada~~ Canada Square. But, at the same time, Canada Square ~~no~~ ^{is} I am sorry, if we go through the example, ~~I~~ ^{have} again got the rate of exchange of U.S. \$.95 equals Can. \$1.00. The proceeds ~~of~~ ^{are} Can. \$45 million. ~~All right, the building~~ ~~is~~ ^{is} lease. the rental is still \$4.84, the Can. equivalent of the cost of U.S. \$3.18 which is now payable under the net lease. I am going to the net lease first ~~the~~ the rental under the net lease is the amount required to ~~amortize~~ ^{in full} amortize the ~~indemnity~~ ^{indebtedness}, so it's U.S. \$3.18, based upon this exchange rate of U.S. \$.95 equals Can. \$1.00, the Canadian equivalent, the amount that Hydro would have to pay is \$3.35, as is the rental under the lease-back. The Canadian equivalent based on the rate of exchange at the date of the ~~first~~ first draw is \$3.35. That leaves \$1.49 for Canada Square and a total of \$4.84, which is the rental. Now, if we assume that the rate ^{strengthens} ~~strengthens~~, the Canadian dollar ~~strengthens~~ ^{strengthens}, then as you see ^{under} the building lease ~~is~~ ^{is} \$4.84, is still the rental

August 2, 1973
10:55 - 11:00 a.m.
B.G.

(Mr. Bradshaw)

under that, the lease-back ~~amount~~ doesn't change because it was fixed and related to the rate of exchange on the day of the first draw; ^{the} net amount to Canada Square doesn't change, it is \$1.44; the amount payable by Hydro to purchase U.S. ~~\$3.18~~ becomes ~~Can.~~ Can. \$3.24, ~~becomes~~ because the amount under the net lease now is \$3.18, so the total rental is \$4.73.

Assuming the rate goes the other way, and that the Canadian dollar weakens in terms of the U.S. dollar, then again the building lease rental doesn't change, the lease-back rental doesn't change, the net amount to Canada Square doesn't change, but it costs Hydro more to buy the \$3.18 worth, so that it costs Hydro \$4.94.

Now, the ~~sample~~ question you asked, Mr. Shibley, was why not use par for all the examples, and unfortunately because I was helping Mr. Bell with documents as well, I wasn't able to do the examples of that. But what you can do is you would have to substitute the figures into examples B and D, using par to calculate the amount payable under the net lease. So if you look at B, if ~~par~~ used instead of the rate of exchange in effect at the date of the draw, which is ~~U.S.~~ U.S. \$1.05 equals Can. \$1.00, used U.S. \$1.00 equals Can. \$1.00, ~~and~~ and that only affects the rental under the lease-back -

Mr. Shibley: Right.

Mr. Bradshaw: The figure there would be \$3.35, ~~reducing the~~ ^{net} amount payable to Canada Square. It would be \$3.35, so it would be \$0.17 more, so Canada Square would get, ~~\$1.66~~ \$1.66 would be reduced to \$1.49. The cost to Hydro would remain the ~~same~~.

(Tape H-1690 follows)

August 2, 1973
11.00 - 11.05 a.m.
M.R.

(Mr. Bradshaw)

~~... 17 cents more so Canada Square would get \$1.66 which would be reduced to \$1.49 plus \$3.18 so it would be \$1.49 plus \$3.18, which would reduce the rental to Hydro. However, in example B, Canada Square only got \$42,750,000 Canadian and the additional amount between \$1.66, the extra 17 cents in effect, is to compensate Canada Square to permit it to amortize the additional investment is ~~very~~ carrying itself.~~

Mr. Shibley: Just stopping there, Mr. Bradshaw:

On example B then, the commitment from the U.S. being to a limit of \$45 million U.S. which converted to Canadian funds would only be \$42,750,000 and the cost of this project being a cost in Canadian dollars, is it a fact then that the excess of \$2,250,000 would have to be funded by Canada Square out of its general funds as opposed to ~~fund~~ funding under this mortgage.

Mr. Bradshaw: Correct.

Mr. Shibley: Now then, in the converse situation, of the example in C, where again the U.S. is lending ^{the} ~~U.S.~~ institution is lending \$45 million that is converted to \$47,250,000 in Canadian funds; in that circumstance, again presuming that the cost of the building, its overall cost is \$45 million, then Canada Square would have an excess over that cost of \$2,250,000 which it has the use of but against which it has the offsetting reduction over the 30 years of the amount recovered for maintenance, operating costs and so on. Is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: That is the situation?

Mr. Bradshaw: That was the original proposal that was put up them.

Mr. Shibley: I see.

Mr. Bradshaw: Put up to Hydro.

Mr. Shibley: And then - oh, I see, that's the ...

August 2, 1973
11.00 - 11.05 a.m.
M.R.

Mr. Bradshaw: You see, what would happen,
Mr. Shibley, if I could just continue - am I getting across?

Mr. Thomson: You are right. That's not
what the agreement says.

Mr. Shibley: That's what led you to the problem,
I gather, that when Hydro said we don't like the second
situation ...

Mr. Bradshaw: Yes but let me just deal still
with the question of par,

Mr. Shibley: Yes.

Mr. Bradshaw: Because that's a completely different
question and we convinced Hydro the par was appropriate or that
the rate of exchange at the date of the draw was appropriate
and it will be able to convince the committee as well.
Because I describe the example here in B where if you use par
it means that Canada Square would get \$42,750,000 instead of
\$45 million but there would be no increase in the net amount
that it got so that as a result it would be suffering.
It would be gambling that the thing was going to be par at
the date that it drew down because if it was - if the Canadian
dollar was stronger than the American dollar, then it was
going to get less proceeds and no provision for compensating
it for the fact that it was going to have more of its own
money in.

Mr. Shibley: And it didn't - that's the point,
Canada Square did not want to be in that position any more than
Hydro wanted it to be in the converse position if the Canadian
dollar were weaker.

Mr. Bradshaw: Yes, but now what happens - the way
they did it was they stopped it up in a different way, they
just put a maximum on the Canadian - the mortgage but if we
go to C without that maximum you see what would happen is
if the U.S. dollar was \$.95, it was stronger so that the
you come down with your \$45 million U.S. and you go into the
bank and they give you \$47,250,000 Canadian ...

August 2, 1973
11.00 - 11.05 a.m.
M.R.

Mr. Shibley: Yes.

Mr. Bradshaw: then if you did it at par, if the net lease rental was calculated at par rather than at the rate of exchange which produced those extra funds, then the rental under the net lease would be \$3.35.

Mr. Shibley: Right.

Mr. Bradshaw: Which would be ^{CENTS} ~~\$~~17 less than the amount that Canada Square is obliged to pay if ~~it's~~ it's calculated in accordance with the rate of exchange at the date of the draw, which would mean that notwithstanding that Canada Square got more than the \$45 million, it got an extra \$2,250,000, it was still enjoying the same net rental in effect. It would still get \$1.49 instead of, as this example shows, when it's related to the rate of exchange, at the date of the draw, it gets ~~\$~~ \$1.32.

Mr. Shibley: I appreciate that.

Mr. Bradshaw: So it gets additional money now but it has to use that money. ~~and~~

H-1691 to follow

(Mr. Shibley)

~~Mr. Bradshaw: But it gets additional money now, but~~

~~it has to use that money~~

Mr. Shibley: Mr. Bradshaw, I think what the Committee still doesn't understand, and I want to make it clear one way or the other, is the situation still, under the existing agreement, one wherein Canada Square can receive US \$45 million, and presuming the US \$1 to be stronger than the Canadian \$1, to the extent of say, \$0.95 - \$1.00, Canada Square would receive an excess of \$2,250,000 at the outset, but Hydro gets it back by the reduced payments under the net lease?

Mr. Bradshaw: No, no, that's quite clear; that was an error I made yesterday and I thought I had corrected that first thing this morning.

Mr. Shibley: No, now how did you correct that — how did you remedy that situation under the agreement?

Mr. Bradshaw: All we did was we used a bit of sticking plaster. We just said, "Under no circumstances is the permanent financing to exceed the equivalent of Can. \$45 million."

Mr. Shibley: ~~Does it go the other way as well?~~
That you can borrow sufficient in US funds —
Mr

Mr. Bradshaw: No Sir.

Mr. Shibley: I think this may be important. In other words, if the Canadian \$1 is stronger, then Canada Square is in the position that it is still limited to borrowing only ^{Can.} US \$45 million, and if that's only worth ~~\$2,700,000~~, it's got to find the balance of funds for this building out of its own resources.

Mr. Bradshaw: Can I just qualify that because it's correct in general. But the mechanics of it are that the maximum amount payable under the net lease is US \$3.35. And, the permanent financing cannot be in an amount in excess of the amount that can be amortized by US \$3.35. The documents provide that you cannot borrow more than the amount that can be amortized by US \$3.35.

~~to be amortized~~

Mr. Shibley: Well, then, that means the automatic

Mr. Bradshaw: No, US \$3.35 will amortize \$45 million

at a little over 8 per cent, I think 8-1/4 or something like that.
So, if the ^{exchange} rate went that way, and, at the same time, interest
rates reduced so that the financing could be done at 7 per cent,
then you might be able to build yourself back up again because
you would be able to amortize a 7 per cent loan of a larger
amount ⁱⁿ US dollars.

Mr. Shibley: We are staying with an 8 per cent loan as
a fixed factor. That's been basic to your whole examples. What
I want made clear to this committee is that if the American ^{\$1} ~~dollar~~
is weaker than the Canadian \$1, that the limit of the loan in US
funds being US \$45 million, that amount when converted to Canadian
funds could mean that ^{Canada} ~~Canada~~ Square only has from the proceeds
of the mortgage, let's say \$43 million - is that correct?

Mr. Bradshaw: Correct.

Mr. Shibley: And, as for the balance of that \$2 million
that would be required to fund this project, it would have to find
those funds out of its own resources. Is that right?

Mr. Bradshaw: Correct.

Mr. Shibley: If the disparity is even, ^{larger} ~~less~~ than that,
let's say it were as much as 10 per cent, it might have to find
as much as \$4 million out of its own resources. Is that correct?

Mr. Bradshaw: Yes. If the cost of the building is
\$60 million because of a strike or some other problem, then it's
going to have to find, in any event, \$15 million out of its own
resources.

Mr. Shibley: Right. Now what I'd like to ask you is,
that discussion took place about the provision of a performance
bond which would guarantee to Hydro the ability of Canada Square
to complete that building, notwithstanding the circumstances you
just described, namely that

(Tape H-1692 follows)

Aug. 2/73
11.10 to 11.15 am
fvk

(Mr. Shibley)

~~the possibility of the circumstances you just described, mainly~~
that the mortgage funding might not provide enough funds and the cost of the building might exceed \$45 million in the event of a strike or other circumstance.

Mr. Bradshaw: ~~Am~~ Do you want me to go on with that not under oath?

Mr. Chairman: Well, that's.....

Mr. Henderson: Mr. Shibley?

Mr. Chairman: Is the instruction period over?

Mr. Henderson: I have one further question on this financing. Let's presume item (b) that they received ~~\$42~~ \$42,750,000 on the date of the takedown of the money, then the following week the American dollar goes back to par and stays at par for the full term of the lease. Who is the loser of that \$2,250,000? Who puts it up?

Mr. Bradshaw: If the rate -
If

Mr. Henderson: ~~Is~~ the next day after the takedown it goes back to par and stays there.

Mr. Bradshaw: Were you looking at ~~and~~ (b)?

Mr. Henderson: Yes, we're accepting (b) as the takedown, then a week later that their dollar goes back to par.

Mr. Bradshaw: In that case then it costs Hydro more to buy the \$3.35, ~~and~~ dependent upon that lease so, in that case, Hydro would be paying a larger -

Mr. Bullbrook: That's where the crap shoot continues,
Mr. Henderson.

Mr. Henderson: I'm not clear on this yet myself.

An hon. member: It does.

Mr. Bullbrook: Then, help me on this. Supposing, because at the time of the draw - put in here first draw. There's just one draw.

Mr. Henderson: Let's accept it as one for ~~that~~ calculation ~~at the moment~~ at the moment.

Mr. Bullbrook: Supposing that, at the time of the draw,

Aug 2/13
11 10 to 11.15 am
fvk

(Mr. Bullbrook)

it's only necessary because of the exchange rate at the time, for ~~the~~ company 'X' to advance \$42 million, okay, US funds. So, in effect, the amount required to be paid back -

Mr. Renwick: Forty -

Mr. Bullbrook: Forty-two million.

Mr. Renwick: \$ Forty-two million Canadian, \$45 million US, \$42 million Canadian.

Mr. Genest: Almost \$45 million.

Mr. Bradshaw: It's possible, under example ~~that~~ (b) that they only have to -

Mr. Bullbrook: No, help me here, because I might be wasting your time entirely. I thought that there continued to be the possibility and that the understanding was, under section 28, that the maximum Canadian that Canada Square can get ~~has~~ is \$45 million. Is there ~~a~~ a possibility -

Mr. Henderson: No, the maximum dollars.

Mr. Renwick: Canadian dollars.

Mr. Bullbrook: Canadian!

Mr. Henderson: The maximum dollars - \$45 million.

Mr. Bullbrook: Bear with me Lorne, for a few minutes here, okay, because I'm not sure -

Mr. Henderson: Neither am I.

Mr. Bullbrook: I'm not sure that I - I'm ~~obscure~~ just not obtuse on this, but I want to follow this one through.

Supposing, because of section 28, you've protected Hydro, or Hydrohas been protected ~~so~~ so that the maximum that Canada Square gets in Canadian funds is \$45 million. Supposing, because of the exchange rate at the time of the draw, to provide that \$45 million it only requires company "X" to advance - permit me to say \$42 million, okay? \$42 million.

Mr. Bradshaw: Look at ~~it~~ (d) while you're talking, Mr. Bullbrook because it's right on.

Mr. Bullbrook: All right. Am I correct in assuming that,

Aug. 2/73
11.10 to 11.15 am
fvk

(Mr. Rawl Bullbrook)

notwithstanding the obligation to only repay \$42 million American over the amortized period, that because of the responsibility continuing under the lease, for Hydrex to ~~amort~~ repay the \$3.35 equivalent US, that a change in the ~~amort~~ exchange rate would oblige Hydrex to ~~pay~~ repay considerably more than the \$42 million US together with the amortized interest over the period of time, that the crap shoot continued.

Mr. Bradshaw: Can I answer that?

Mr. Bullbrook: Yes, all right. Just a minute. That the crapshoot continues in that respect and that you recognise, that because of the basic principle and acceptance by Hydrex that the foreign exchange was to be at their risk, that's why the crap shoot continues.

Mr. Bradshaw: No. I'm sorry now I ever used the word crap shoot because it is what happens if you always do it at par.

Mr. Bullbrook: ~~Continue~~ Okay.

Mr. Bradshaw: Look at (d), Mr. Bullbrook. This is exactly the case. ~~This is where the basic US principle is, as Bradshaw~~
~~is, as Bradshaw~~

(Tape H-1693 follows)

August 2, 1973
11.15 - 11.20 a.m.
M.R.

(Mr. Bradshaw)

~~The difference between the two is~~ This is where
\$.95 U.S. equals \$1.00 Canadian. Now, what happens in that
case is that we can't borrow \$45 million U.S. We can only
borrow your \$42 million U.S. - for simplicity - that means,
that the rental under the net lease has to be reduced to
\$3.18 U.S. because we are not allowed to have a higher rental
under the net lease than the amount required to amortize the
permanent financing.

So, Hydro's obligation under ~~the~~ ^{the net} lease is reduced
from \$3.35 U.S. to \$3.18 U.S. Now, at the date that this
happens, of course, it costs \$3.35 Canadian to buy the \$3.18,
but what happens if, after that ~~the dollar~~ our dollar
strengthens? ~~There~~ There is an example D(1) where you have it
going to \$.98 and the net rent in Canadian funds to Hydro
at that point drops to \$4.73. If it gets worse, on the other
hand, if ~~the~~ ^{the} Canadian dollar gets even weaker, then the
rent goes up to \$4.94, but what I meant ~~was~~ ^{by the} ~~was~~ ^{was} not that
Hydro assume the exchange rate, because Hydro agreed that if
there was ~~any~~ it was agreed between the parties that there is
an exchange rate risk, not a crap shoot but a risk, on
foreign borrowing and Hydro agreed that they would assume it
rather than Canada Square.

Where the gamble comes in is if you use par instead
of the effective rate on the date of the draw, because then
the proceeds can be more or less, without any change in the
net to Canada Square.

Mr. Henderson: Well, Mr. Bradshaw, you are
~~speaking for~~ ^{speaking for} your company when you say that, ~~there is a~~
gamble, not ~~the~~ ^{the} Hydro ...

Mr. Bradshaw: No. It would be a gamble for
Hydro too, sir.

Mr. Henderson: Why?

August 2, 1973
11.15 - 11.20 a.m.
M.R.

Mr. Bradshaw: That's exactly my point.

Mr. Henderson: Why?

Mr. Bradshaw: Because what you do is that Hydro is obliged to pay \$3.35 U.S.

Mr. Henderson: Oh, well, that's different. No, but if it was ~~was~~ straight on the Ontario - I get you there.

Mr. Bradshaw: But you see, in my examples you will notice that every time the first rental payments under the lease are \$4.84, if you use the effective rate at the date of the draw; if you use par, notwithstanding that ~~was~~ at the date of the draw the exchange rate is different, then the first rental payments are different for Hydro.

Mr. Chairman: Now, Mr. Allan, ~~will~~ ^{will} see how much you understand of it by the intelligence of your question.

Mr. Allan: Mr. Chairman, I wonder if my understanding of this thing is an over-simplification of the whole matter. Because my understanding of this whole financial deal is that Hydro considered it wise to use American funds rather than Canadian funds because of the difference in the interest rate. Hydro gets the benefit of a lesser interest rate than they could have had if Canadian funds had been used, and because they get that benefit it's proper that they should take the risk as far as the exchange rate is concerned, and really all this amounts ^{to}, and all these figures, to me, just work out a plan whereby these funds were raised in the United States and I think, very wisely, because of the lower interest rate, and that the financing finally will cost Hydro less than if it had been done in Canada. And the figures that we have been shown this morning ~~are~~ ^{are} just a mathematical and, I think, likely very just and accurate, ~~of~~ ⁱⁿ bringing that about enabling Hydro to use American funds to finance this building, and I expect that it has been worked out in a way that it's just to Hydro and just to Canada Square.

Mr. Denwick: Mr. Chairman, I'd like ^{to know whether} ~~like~~ Mr. Allan is asking me that question?

August 2, 1973
11.15 - 11.20 a.m.
M.R.

Mr. Chairman: No. He is asking Mr. Bradshaw.

Mr. Bradshaw is still not under oath.

Mr. Bradshaw: Well, I certainly hope that, that was the object of the exercise.

Mr. Renwick: Mr. Chairman, then, if I may say something. I think that's an over-simplification, because I think so far as I understand it, ~~Hydro did not involve itself in the question of where Canada Square got the money in any case.~~ I think it would be fair to say, as I understand it, that they didn't give a damn where the money came from.

~~It could have been Canadian dollars. It could have been U.S. dollars.~~

H-1694 to follow

August 12, 1973
11:20 - 11:25 a.m.
B.G.

(Mr. Renwick)

~~that they didn't give a damn where the money came from.~~

It could have been Canadian dollars, it could have been U.S. dollars, it could have been Swiss francs; they might -

Mr. Allan: They would ~~not~~ be concerned about the rate of interest.

Mr. Shibley: Mr. Chairman, may I -

Mr. Chairman: That may be an unfair question to ask Mr. Bradshaw.

Mr. Bullbrook: Well, ~~I think we are~~ ^{if they were} concerned about it, why weren't ~~we~~ ^{they} told about it?

Mr. Chairman: Yes, but it may not be Mr. Bradshaw to answer if Hydro was or ~~was~~ was not, that's all.

Mr. Bullbrook: ~~No.~~ No.

Mr. Renwick: It seems to be that basically the financing was left up to Canada Square.

Mr. Shibley: ~~Mr.~~ Mr. Renwick, I really believe the point is being missed, and the point is this, for the benefit of the lower interest rate to be passed on to Hydro, it would have to be done in the ~~the~~ rental rate, and the evidence ~~to~~ to this point of time is that the other developers we were not told that Hydro was prepared to assume the risk of foreign exchange, which was basic to the obtaining of monies at a ~~the~~ lower rate of interest. Now, accordingly, when one makes a comparison of the rental rates proposed by the four developers, and the submission of Canada Square, ~~there~~ is predicated on an understanding that Hydro would accept the risk of foreign exchange and thereby enable it to borrow ~~a~~ money at a lower rate, and this factor was not part of the considerations of the other developers.

Mr. Allan: Well, ^{Well,} /I think that is a different matter.

Mr. Shibley: No, well, it's directly related to your statement, sir, and that's where the point must not be missed because if the other developers had been told to make

August 2, 1973
11:20 - 11:25 a.m.
B.G.

(Mr. Shibley)

a submission based upon the borrowing of monies in foreign markets, and that Hydro would be prepared to accept the exchange rates, one can only imagine that their rental rate would have been still lower than that proposed by them, if they were passing that saving along.

Mr. Genest: Is there any evidence of that?

Mr. Shibley: Now, you're assuming for the purpose of your ~~own~~ proposition -

Mr. Allan: My statement was made only from the point of view of looking upon this as a gamble or a crap game or something like this.

Mr. Shibley: ~~That's~~ ^{No, but} I think Mr. Allan it is very important, an element of importance is this, you are quite ^t right, Hydro would benefit by borrowing of the developer in foreign markets at lower rates, but only if that advantage was passed along in the ~~actual~~ rental rate, and unfortunately in this case, we can't tell that it was passed along because the comparison of figures is not based on the same specification in the sense.

Mr. Renwick: I think I am in agreement at this point with Mr. Allan that within the framework that we have been talking about -

Mr. Allan: We have been talking, that was my only point. That's right.

Mr. Renwick: - that's a different matter on which Hydro witnesses will have to give their evidencex to get it.

Mr. Shibley: Exactly. I just wanted to point out.-

Mr. Renwick: But I have got a couple of, just to clarify in my own mind on a matter where I am not clear, I ~~WANTED~~ ^{WANTED} to ask Mr. Bradshaw a couple of questions about these figures which I don't think - I accept and it seems to me to make eminently good sense both from Canada Square's point of view and from Hydro's point of view, that the decisive exchange rate

H=1694-3

August 2, 1973
11:20 - 11:25 a.m.
B.G.

(Mr. Penwick)

be the exchange rate on which the drawdown takes place, and it would have been arbitrary to have stated par for par, when you know, ~~know~~, that would have been completely arbitrary because ~~that~~ the exchange rates don't operate that way. So I accept that.

I have no problem with the ultimate fact that the loan will be ~~denominated~~ denominated in U.S. dollars, and that the currency of repayment will be U.S. dollars, so I don't have any problem ~~of~~ about the fluctuations up and down that ^f the U.S. dollar is worth more and Hydro is assuming the ~~exchange~~ exchange risk. Hydro is going to have to pay more to get the U.S. dollars to make the payment, and the converse is true, so I don't have any problem with that side of the coin.

~~But what I would like some help with...~~

(Tape H-1695 follows)

August 2/73
11.25-11.30 a.m.
E.M.

(Mr. Renwick)

~~to make the payment and the converse is true, as I have~~
~~any problems with that side of the coin.~~ But what I would like some help with is the variation in the Canadian dollar part related to the amount which goes to Canada Square, the column which fluctuates from \$1.49 through to \$1.66 down to \$1.32. Now again I don't have any problems with the \$1.49, I don't have any problems with the \$1.66 and I don't have any problems with the \$1.32 on the examples, I understand those, and I understand that if Canada Square has to put up some money of its own, assuming the building is \$45 million on the nose and they only get 42,500,000 that they are going to get an additional number of cents which will go to amortization^e that portion of the money which they have had to put up.

Can you help me within what limits that can fluctuate? What are the sort of outside ~~limits~~ limits? I can see - when you put the ceiling on, that appeared an immense problem, that windfall exchange profit was ruled out and the risk of being able to build~~ing~~ the building at \$45 million was fixed in a sense on Canada Square. But is there anything in here which would connote an opportunity for Canada Square to make money at ~~the~~ the expense^s of Hydro?

Mr. Bradshaw: No.

Mr. Renwick: Would you just clarify that because that is the only thing that concerns me and I have no basis for thinking there is, but I have to be clear about it.

Mr. Bradshaw: No; you ^{have} ~~had~~ no trouble with the one at par, the 1.49 is the figure.

August 2/73
11.25-11.30 a.m.
E.M.

Mr. Renwick: No, I don't have. And I don't have problems with the \$1.66.

Mr. Bradshaw: Well, with the \$1.66 they are making more money, but they are covering the cost of the ---

Mr. Renwick: Of the money they have to put up?

Mr. Bradshaw: Yes, and ^{to} let you know if the exchange ~~was~~ rate went, if we really strengthened and as a result, say, it was a ten per cent differential; if it was 90 to a dollar then instead of ~~2.18~~ 3.18 there we could expect a figure of closer to \$3. It would be ten per cent.

Mr. Renwick: It could never go below \$1.49 now?

Mr. Bradshaw: It can't go below \$1.49.

Mr. Renwick: Right, so Canada Square ~~is~~ is ---

Mr. Bradshaw: Well, yes, but ---

Mr. Renwick: -- is going to get \$1.49 or better?

Mr. Shibley: I think 'D' is the actual fact of what is the agreement, is it not?

Mr. Bradshaw: A, B and D are the actual fact of the agreement.

Mr. Renwick: I wonder, perhaps the interjection needs clarification. My reading of this is that without the ceiling that was inserted by clause, section 29, without the ^{it} ceiling, would be possible for Canada Square to get less than ~~\$~~ \$1.49, ---

Mr. Bradshaw: That's right.

Mr. Renwick: But in fact with the ceiling, the effect of the ceiling is that Canada Square gets \$1.49 or better?

Mr. Bradshaw: Right. And it gets better if it doesn't get as much money from ---

August 2/73
11.25-11.30 a.m.
E.M.

Mr. Renwick: And that's the only variation is with respect to the amortization of the number of dollars that Canada Square may have to put up to supplement the number of Canadian dollars they get on the U.S. borrowing.

Mr. Bradshaw: Apart from the variations we were talking about, you know, the ones that I ruled out by the assumptions.

Mr. Renwick: Oh yes, apart from the ~~xxx~~ escalation and the cost of maintenance charges, that kind of thing, right. But there is no - the only fluctuation upward from \$1.49 will be to the extent that there are ---

Mr. Bradshaw: That there is a shortfall.

Mr. Renwick: That there is a shortfall which has meant that Canada Square has had to put up, if the building costs \$45 million, additional dollars of its own?

Mr. Bradshaw: I believe that to be the situation, that is what we strove for and I think that is what we achieved.

Mr. Renwick: Thanks very much, Mr. Bradshaw, I think that is extremely clear to me.

Mr. Walker: Mr. Chairman, if we came back in the year 2005, I guess we would be able to determine precisely the situation. Did you, however, extrapolate a model based on, perhaps a take-down rate that might be around today's currency exchange and perhaps based on a history. Did you provide any history? I realize it would be totally hypothetical but I think if I were in either Hydro's position or Canada Square's, I would be interested in perhaps ---

Mr. Bradshaw: Well, talk to Mr. Natchich about that. Maybe he's put it on the computer.

August 2/73
11.25-11.30 a.m.
E.M.

Mr. Walker: Well, I realize that but history at least gives us some idea, ~~and~~ perhaps the last five years or 10 years would give us some idea of the column 5.

Mr. Bradshaw: I am sorry, I certainly wasn't a party to any making of a model, I just tried to put it down in words, after we figured out what we were going to do.

Mr. ~~M~~ Renwick: Could I reply to Mr. Allan, as I ~~can~~ understand it, why I had the temerity to say that it was an over-simplification. ~~I think that because it is a 30-year~~

(Tape 1696 follows)

Aug. 2, 1973
11:30 - 11:35 am
JLP

(Mr. Renwick)

~~why I had the temerity to say that it was an over-simplification.~~

I think that because it's a 30-year span, and because the Canadian dollar might very well continue to drop, might drop over that period of time to - ^{for} ~~well~~ an extended part of that period ~~as~~ say to 90 cents, then because the US dollar was worth more than the Canadian dollar, Hydro would have to pay more on that exchange risk over such a substantial period of time, and because of the substantial differentiation between the Canadian and the US dollar, that, in fact, the exchange risk, when added into the cost of money, might well put the interest rate above any present-day calculation of limitations.

~~Mr. Wm. W. Hodgson~~

Mr. Wm. W. Hodgson: It could go the other way too.

Mr. Allan: I think if this were worked out, you would find that the exchange would need to go quite high before that would happen, with the difference in the interest rate.

Mr. Renwick: I could say this, that within the range of our own experience, looking back 30 years, the last 30 years, the differential could be significant, that is when the Canadian dollar was either fixed or floating at 90 or 92 ~~cents~~ over a substantial period. So, if we use, say, the last 30 years, as the projection of the last 40, it's just speculation on our part, *as to* the extent of that differential.

Mr. Allan: I think that could be worked out. But, as Mr. Walker says, in all probability, it wouldn't be too far off par, depending on how many years you went back. Because there was a considerable time when our dollar was at a premium, and quite a premium.

Mr. Renwick: All I am saying is that while that might be historically the case, it's pure speculation on our part. Because to the extent that the present time, it may be to Hydro's advantage, if one wants to speculate, one can speculate the other way that it will be a distinct advantage, because if it's true that in the face of the devaluation of the US dollar, that the

(Mr. Renwick)

Bank of Canada is keeping the Canadian dollar down at the US rate, And if they were to change their fiscal policy, and the Canadian dollar were to be allowed to float upwards, say to a premium over US dollars, then, of course, Hydro gets the advantage of that. The only point I'm making is we can't speculate as to what in God's name monetary policy will be.

While
Mr. Chairman: ~~While~~ we have Mr. Bradshaw with us, I'd like to continue with his testimony. We can speculate later on. ~~But~~ You didn't complete all of these pages, Mr. Bradshaw, but I think we have all the information we need on them. You have a question, Mr. Newman.

MR. W. NEWMAN: Just one very simple question Mr. Bradshaw. You are talking about net leases, and I see your variation of figures and so on, and so forth. No matter how bad the exchange rate got - you know, major fluctuation - is there any way that the total net rental to Hydro of \$4.92 could be changed?

Mr. Bradshaw: Yes.

Mr. Bullbrook: Absolutely, by a great deal.

Mr. W. Newman: Well, that's right. We have been talking a figure of \$4.92.

Mr. Bradshaw: Well, it's \$4.84 after you ~~have~~ deducted the commercial areas. It's the same thing with the set off.

Mr. Bullbrook: I want to ask a question again.

Mr. Renwick: Mr. Newman's worried about that. Yes, it can ^{the} because of the possibility of exchange fluctuation, it can fluctuate ~~substantially~~ higher.

Mr. W. Newman: This is what I gathered from what was said this morning, and yet I had that figure of \$4.92 fixed firm in my mind as a maximum figure.

Mr. Bradshaw: No.

Mr. Bullbrook: The words that, the foreign exchange rate

Mr. Wm. Hodgson: Could go lower too, Bill.

Mr. W. Newman: Oh yes, I realize that.

Mr. Henderson: Bill, remember we still have Diefenbaker around.

Aug. 2, 1973
11:30 - 11:35 am
JLP

Mr. Bullbrook: The words that the foreign exchange rate are at ~~Hydro's~~^{are} risk ~~as~~ the cornerstone of these formula.

Mr. W. Newman: I am aware of that completely, but I thought that maybe there was a fixed ceiling ^{that} ~~it~~ could go on the rental rate but apparently not.

Mr. Bullbrook: I want to ask, is the date of the takedown ~~is~~ ^{Or} is that negotiable at all? ^{is} ~~is~~ it academic?

Mr. Bradshaw: You mean under the contract for bond-purchase agreement?

~~Yxxx~~ Mr. Bullbrook: Yes.

Mr. Bradshaw: Oh yes.

Mr. Bullbrook: It is. Why ^{is} ~~is~~ that?

Mr. Bradshaw: Because Canada Square isn't sure when it's going to finish the building and when it is going to be accepted by Hydro.

~~Mr. Bradshaw~~ It's getting less sure, I guess, all the time.

Mr. Renwick: As I understand it, it is not negotiable, or at least there is a cellar on it ~~that the money is not required to put up the money until the building is completed and Hydro is in possession and is prepared to start paying rent.~~

~~Mr. Bradshaw~~ Oh, indeed, that is right.

(Tape H-1670 follows)

Aug/ 2/73
11.35 to 11.40 am
fvk

Renwick)
(Mr. Bradshaw)

that the lender is not required to put up the money until the building is completed and Hydro ~~was~~ is in possession and is prepared to start paying rent.

Mr. Bradshaw: Oh, indeed, that's right.

Mr. ~~Bradshaw~~ Bullbrook: That's the only negotiable ^{ility.}
And Mr. Shibley: What is that cut-off?
Mr. Bradshaw: ~~And~~ there's a cut-off. I believe the way

the agreement is ~~being~~ drafted, at the moment it's the end of 1975. ^{Mr. Bradshaw:}
They want the money out by then.

Mr. Renwick: In my thinking, elaborating on it, the so-called what - what did you call it? - "come hell or high water lease", the proposition is that the US lender is waiting until Hydro says: "We are now prepared to start paying rent", and they won't advance a cent until ~~Hydro~~ Hydro is prepared to start paying the rent under the lease because that's their "come hell or high water" assurance.

Mr. Bullbrook: One other question, is the word "first draw" used in here just a slip? Is there just one draw?

Mr. Bradshaw: No, when we were writing the agreement ^{simultaneously.}
the financing wasn't arranged. We were negotiating ~~simultaneously~~

Mr. Bullbrook: You see the reason for my question.

Mr. Bradshaw: The first draw seemed like the best time to start. That's the time when the rental would start to be payable.

Mr. Bullbrook: How do you compensate then, in your formula, ^{if}
~~is~~ there are two, or three or four draws?

Mr. Bradshaw: We just arbitrarily fixed that. Everybody agreed that would be the rate.

Mr. Bullbrook: Now, that is really important. Help me, all right? I act for ~~the~~ farmers in Lambton county, so help me, I don't know.

Mr. Henderson: Not too many.

Mr. Bullbrook: Touche! And he's right too.

Mr. Chairman: It sounds like ¹⁻¹ ~~it's~~ privileged.

Mr. Bullbrook: I act for businessmen in the city of Sarnia. How does that grab you? And not too many of them either since I'm down here. I want to explain to you that I don't understand that.

Aug. 2/73
11.35 to 11.40 am
fvk

(Mr. Bullbrook)

Just let me finish this. Supposing you take down \$10 million right in your first draw, at a rate that's - I won't get into the rate. Supposing you take down \$10 million in your first draw, that there is a substantial change in foreign ~~exchange~~ exchange when you take down your second ~~draw~~ draw at ~~45~~ \$35 million. How is that covered in the agreement?

Mr. Bradshaw: I think that the practicality of a ~~change~~ substantial ~~change~~ foreign exchange between ~~these~~ these periods was something that everybody weighed and decided that this was the most practical way to handle the thing.

Mr. Bullbrook: So there is no provision in the ~~agreement~~ agreement for -

Mr. Bradshaw: The fact is that its ²completion financing and the building has to be up and the lease signed before you can get your money.

Mr. Shibley: Mr. Bradshaw, could we clear up this? The Bank of Montreal is providing the interim financing to completion of the building.

Mr. Bradshaw: Not yet it isn't, Mr. Shibley.

Mr. Shibley: Did it not make a commitment?

Mr. Bradshaw: I have no knowledge of that.

Mr. Shibley: I'm sorry.

Mr. Bradshaw: It may have, but I don't know.

Mr. Shibley: This is a completion loan we're talking about.

Mr. Bradshaw: Yes.

Mr. Shibley: I must say I believe that the whole of the funds would be advanced on completion of the building and Hydro committing itself to commence payment of rental payments. Is there provision for interim advances on the permanent financing?

Mr. McCallum: There couldn't be.

Mr. Renwick: No way, in this case, because that's the "hell or high water" lease. ~~Something~~

Aug/ 2/73
11.35 to 11.40 am
fvk

Mr. Bradshaw: Certainly, the lease has to be signed before.

Mr. Shibley: It goes beyond the lease being signed by Hydro. I think Hydro has to sort of certify that it's in possession and prepared to advance, once the lease payments, before the permanent financing is going to be advanced. I took it as a one-shot advance on completion of the building. Is that not so? And that eliminates Mr. Bullbrook's problem.

Mr. Genest: Absolutely.

~~Mr.~~ Mr. Bradshaw: Yes, it certainly does.

Mr. Chairman: It's referred to, however, as the first draw, is that correct?

Mr. R.G. Hodgson: It's the first and last.

● Mr. Chairman: It should have been referred to as the only draw rather than the first draw, I suppose.

Mr. Renwick: Until the question is answered it doesn't eliminate Mr. Bullbrook's question.

Mr. Chairman: ~~NO.~~
Mr. Bradshaw: ~~NO.~~ I wonder, perhaps, when ~~there is~~ we have a break, I'll look at it.

Mr. Shibley: Look at it, yes.

Mr. Chairman: Are you asking for a break?

Mr. Bradshaw: ~~NO.~~ ~~NO.~~ I said, when there is one I'll have a look at the thing.

Mr. Chairman: Fine. Mr. Shibley has some other questions.

Mr. Shibley: Have you finished with the documentation produced this morning as exhibit 198? I know there are further appendices to that.

Mr. Bradshaw: No, those are just the backup materials Mr. Coles prepared ~~on~~ the basis of the figures here.

Mr. Shibley: Yes. All right.

(Tape H-1698 follows)

August 2, 1973
11.40 - 11.41 a.m.
M.R.

(Mr. Bradshaw)

Mr. Chairman: Well, now are you ...

Mr. Shibley: Let's go on.

Mr. Chairman: Well, I just wanted to know

whether you wanted to ~~have~~ break that was all.

Mr. Bullbrook: Yes, Mr. Chairman. Let's have one. I have got to phone some farmers, ~~and then~~

Mr. Chairman: All right. Let's take a 10-minute break. Say if we can get back here in 10 minutes. We'll take a ten-minute break.

The committee recessed for 10 minutes at 11:41 o'clock, a.m.

Mr. Chairman: Ladies and Gentlemen, I call the meeting back to order. I do want to let Mr. Shibley continue as quickly as possible because Mr. Bradshaw, as we all know, has an afternoon or later appointment. I'd like to let him get away but Mr. Renwick has a question for clarification so if you would proceed now, sir.

Mr. Renwick: Thank you, Mr. Chairman. It refers, Mr. Bradshaw, ~~and other witnesses~~ can speak to the question as well but I'd like your evidence to be complete on it. ~~My~~ question relates to Exhibit 196, which is the Elmer Houser draft of September 15, 1972, with the note, which I understand will be established in evidence, ~~in~~ Mr. Moog's handwriting, and the deletion of the government of Ontario obligation to guarantee: ~~the~~ Apart from matters which on the advice of your counsel you consider as privileged matters, do you know anything else about the circumstances which led to the deletion on October 23, 1972, of the provision relating to the guarantee of the Government of the Province of Ontario?

Mr. Bradshaw: No.

H-1698 - 2

August 2, 1973

11.40 - 11.41 a.m.

11.53 - 11.55 a.m.

M R

Mr. Renwick: And going back to the beginning
of its introduction, do you know -

Mr. Bradshaw: I'm back under oath now?

Mr. Collman: Well, yes, I think ~~with this kind~~ with this kind

of question
Mr. Renwick.

Mr. Renwick: Oh, I assumed we were. I'm sorry.

~~Mr. Collman: I think we have reached the end of the~~

~~for the~~

H-1699 to follow

H-1699-1

August 2, 1973
11:55 - 12 noon
B.G.

(Mr. Renwick)

~~Mr. Bradshaw: I am back under oath now.~~

~~Mr. Chairman: Well, Mr. Bradshaw, I think you would be.~~

~~This kind of question Mr. Renwick--~~

~~Mr. Renwick: Oh, I assumed as were, I am sorry.~~

Mr. Chairman: No, I didn't make that clear and for the sake of the records I should now say that our period of instruction is over for which I thank you Mr. Bradshaw.

Mr. Bullbrook: I didn't realize it was. I thought I was going to get an ~~answer~~ answer to that question about the draws.

Mr. Wm. Hodgson: You did get an ~~answer~~ answer.

Mr. Chairman: Well, I think that can be -

Mr. Bullbrook: I appreciate Mr. Hodgson's -

Mr. Chairman: - that can be given under oath.

Mr. Bullbrook: - because I didn't realize.

~~Mr. Chairman: Mr. Bradshaw.~~

Mr. Renwick: Well, Mr. Chairman, I think we've had our little experiment with this business of in and out of oaths, I don't concede that Mr. Bradshaw's period of instruction could have led to him under ~~an~~ any system of law being accused of perjury.

Mr. Chairman: I agree with you Mr. Renwick, but it was I think a little more relaxing for him and I am going to regard the oath now Mr. Bradshaw as definitely restored, and -

Mr. Renwick: Do I need to repeat?

Mr. Bradshaw: My answer is still "no", Mr. Renwick.

August 2, 1973
11:55 - 12 noon
B.G.

Mr. Chairman: His answer is still no. Now, I think you can pick up Mr. -

Mr. Renwick: And my question is still the same, Mr. Chairman.

Mr. Chairman: Your question - all right.

Mr. Renwick: And I have one other question going back to the -

Mr. Chairman: All right, I will come back to Mr. Bullbrook in a minute.

Mr. Renwick: - to the beginning of the ~~negotiations~~ preparation of the documentation with Ontario Hydro which would be some time after you were advised on July 19th that the negotiations were to proceed with Canada Square and Hydro, and Mr. McCallum -

~~Excuse me~~ Excuse me, what date was that, sir?

Mr. Renwick: Well, July 19th was the day the Commission authorized the ~~negotiation~~ negotiation -

Mr. Bradshaw: Oh.

Mr. Renwick: -of the agreement between Canada Square and Ontario Hydro. I am not fixing you with ~~date~~ that date but it is sometime after July 19th, a question - do you know of any of the circumstances or any reasons why this provision for the Government of Ontario guarantee was ~~later~~ introduced into the agreements in the first place?

Mr. Bradshaw: Well, it was to facilitate the financing, the raising of the permanent financing.

Mr. Renwick: Well then I understand that reason, but I was saying was there any, apart from matters on which you are privileged, your counsel advises you that ~~you~~ you are subject to the privilege of your client, do you know of any instruction that you heard about either from Hydro's part or from your own part that led to the introduction of this provision with respect to the guarantee of the Province of Ontario?

August 2, 1973
12.00 - 12.05 p.m.
M R

(Mr. Bradshaw)

~~... in ... Mr. Bradshaw: ... the money will have to~~
be drawn down at one time, the framework of the document is such but there is no question about it in that little bit that was added about the exchange rate and it was added at the time when the maximum Canadian equivalent of \$45 million was added, it talked about the first draw. It doesn't seem to be a practical problem.

Mr. Shibley: Mr. Bradshaw, another committee member has asked me to refer you back to the information provided by Mr. Coles to you that in fact these calculations are based more on an eight and a quarter per cent rate than on an eight per cent rate. Is it therefore a fact that the risk attending the Canada Square position is affected by that circumstance in the sense that if these calculations are based on a rate lower than that on regarding which Mr. Coles is proceeding?

Mr. Bradshaw: The interest rate doesn't come into the calculations at all, Mr. Shibley.

Mr. Shibley: You mentioned a quarter point?

Mr. Bradshaw: No, I shouldn't have because it just - it was a red herring. The fact is that \$3.35 will amortize slightly more than \$45 million at eight per cent.

Mr. Shibley: All right. So that there is slightly ...

Mr. Bradshaw: But the calculations aren't based on that at all.

Mr. Shibley: And that's slightly more on the base figure than would slip over, so to speak, into the amount that is otherwise available to Canada Square for maintenance, operating costs and so on?

Mr. Bradshaw: No, because - no, I'm ~~very~~ sorry, yes it would.

Mr. Shibley: It would.

Mr. Bradshaw: Yes, it would.

Mr. Shibley: All right.

August 2, 1973
12.00 - 12.05 p.m.
M.R.

Mr. Bradshaw: There is no obligation on Canada Square to borrow \$45 million. They could borrow \$40 million and have more for ...

Mr. Shibley: I derived a great deal of benefit from your having made the statement that in your examples the agreement really amounts to A, B and D, and what you did by the ceiling is eliminate the possibility of C. Is that correct?

Mr. Bradshaw: Yes, I hope so.

Mr. Shibley: So that we return to the circumstance that whereas Canada Square cannot realize more than \$45 million on the security of this project, it is subject to the contingency of realizing less than \$45 million?

Mr. Bradshaw: Yes.

Mr. Shibley: ...under example B. Is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: And that depending on the extent of the exchange rate differential that difference could amount to some millions of dollars out of - at least, which millions it would have to fund out of its own general funds. Is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: And you also mentioned that if the cost of the building exceeded \$45 million, that also was at the risk of Canada Square. Is that correct?

Mr. Bradshaw: Yes.

Mr. Shibley: Again we have a ceiling built into the contract. Is that correct?

In other words, Hydro is not obligated to pay more rent even though the building may cost more than \$45 million?

Mr. Bradshaw: Correct.

Mr. Shibley: And you yourself said it might cost \$10 or \$15 million more but let's not take extravagant figures. What concerns me, Mr. Bradshaw, is that there is no performance bond provided for in the arrangement ^{SAY} ~~inter~~ Hydro ...

August 2, 1973
12.00 - 12.05 p.m.
M.R.

Mr. Genest: Mr. Shibley ...

Mr. Shibley: Yes?

Mr. Genest: I'm sorry, before you finally leave the subject of this exchange fluctuation I think it might be important for the committee members to understand at this time what Mr. Nastich's evidence is going to be in that regard to the effect that Hydro maintains a very large holding of U.S. dollars which will enable it to practically eliminate any losses. In other words, in order to make these payments under the lease it won't have to convert Canadian into U.S. It has very large U.S. dollar holdings which it proposes to use to satisfy its U.S. obligations.

Therefore, the risk of ~~exchange rate fluctuations~~ lies on the part of Hydro by exchange rate fluctuations is very minimal.

Mr. Shibley: That's very helpful.

Mr. Genest: I thought the committee members should understand that.

Mr. Shibley: I think that's a very helpful and important point.

Mr. R.G. Hodgson: And relation if you borrow more.

Mr. Shibley: Well, if ~~you~~

H-1701 to follow

Aug. 2/73
12:05 - 12:10 pm
JLP

(Mr. Shipley)
~~XXXXXX~~

I think that's a very helpful and important question. I may just return to my own question, Mr. Bradshaw. It is a fact that the agreement does not provide for a ~~performance~~ ^{performance} bond.

Mr. Bradshaw: That is correct Mr. Shipley.

Mr. Shipley: And a performance bond is the usual vehicle to protect ~~Hydro~~ in this case ~~against~~ ^{against} the deficiencies of funds necessary to complete this building. Whether they arise by reason of the exchange problem we have been discussing, by reason of the excess cost of the building, is that not so?

Mr. Bradshaw: A performance bond is a method. I think you had the word "usual" there.

Mr. Shipley: Yes.

Mr. Bradshaw: I don't think performance bonds are necessarily "usual".

Mr. Shipley: It is a method.

Mr. Bradshaw: It is a way of making sure that if a contractor goes broke, that the funds will be available for somebody else to complete the building.

Mr. Shipley: Or if his financing falls through.

Mr. Bradshaw: Well, that's when he goes broke.

Mr. Shipley: That's right. Or if the cost of the building exceeds his expectations.

Mr. Bradshaw: I'm not familiar enough with all forms of performance bonds, Mr. Shipley, but —

Mr. Shipley: Basically, if he can't put up the money to complete the building, the bonding company does.

Mr. Bradshaw: Yes, but they don't give it to him.

Mr. Shipley: I realize that, they finish the building.

And there's no such bond in this case?

Mr. W. Newman: Mr. Chairman, ^{I ask Mr Shipley,} is that partly because the building will still be owned by Canada Square until Hydro sign the lease?

Mr. Wm. Hodgson: Still be in 30 years.

Mr. Henderson: Mr. Chairman, Canada Square are building their own building and it's really their building until Hydro take it over.

(Mr. Henderson)

There is nobody to ~~not~~ perform to until Hydro takes it over.

Mr. Shibley: With this exception, Mr. Henderson, I think that Hydro is contracting with Canada Square in the expectation that it's going to have a completed building at a given cost, for which it is going to pay a given rate of rent. If this contractor went bankrupt for example, the land remains owned by Hydro; it would have an incomplete building on its hands, and it could really be expected to do nothing much less than to go ahead and complete the building at its own cost.

Mr. Allan: That wouldn't be a *great* ~~much~~ handicap.

Mr. Shibley: Well, I think it's relevant though, —

Mr. ~~Chairman~~ ^{Quanta}: You would probably ~~would~~ *sound as though you* foreclose second mortgages, Mr. Allan.

Mr. ~~Chairman~~ ^{Chairman}: I think we'd better get on *with Mr Bradshaw* ~~to this~~

Mr. Shibley: With respect to, —

Mr. Wm. Hodgson: Mr. Chairman, I don't think Mr. Shibley really got to the bottom of his question.

Mr. Shibley: No, I didn't.

Mr. Wm. Hodgson: Mr. Bradshaw didn't either answer yes or no.

Mr. Chairman: He's coming to it.

Mr. Shibley: That's what I was going to. Was there any provision made, Mr. Bradshaw, to provide some measure of security in that respect?

Mr. Bradshaw: Yes indeed.

Mr. Shibley: I'm thinking in particular of the \$2 million that were set aside out of the general funds of Canada Square with the Bank of Montreal.

Mr. Bradshaw: Yes, a performance bond was discussed during the negotiations. And during the meetings Mr. Moog expressed his view, that I've heard him express on previous occasions, that a performance bond really is a very expensive procedure, which he argued strongly that everybody could benefit by not having to spend the money for a performance bond. And during the negotiations the matter was resolved by an agreement along the lines of paragraph 19

12:05 - 12:10 pm
JLP

(Mr. Bradshaw)

which provides that the \$2 million, that you mention, are to be held and used to ^{be} by Canada Square, and used to finance the construction of the building, and that no funds are to be borrowed by Canada Square on the

(Tape H-1702 follows)

August 2/73
12.10-12.15 p.m.
E.M.

H-1702-1

(Mr. Bradshaw)

and that no funds are to be borrowed by Canada Square on the security of the property or the building until the commitment for the permanent financing is obtained.

Mr. Shibley: So that the compromise ~~that~~^{then} was really in lieu of a performance bond, \$2 million was set aside in a separate account out of the general funds of Canada Square? Is that right?

Mr. Bradshaw: That was the - that's right, and that money had to be put in first and then you'll notice that the definitions in the various lease forms of interim, definitions relating to the interim financing provided there has only a charge to the extent that the money ~~is~~ actually been expended on the building.

Mr. Shibley: Yes.

Mr. Bradshaw: So Hydro was in a position where they -- perhaps we should refer to, I hate to get into these, but schedule B is the ground lease and on page 3 of the ground lease is the definition of ~~the~~^{an} interim charge. This is the security which Canada Square can give to borrow money during the construction period, bridge financing, construction loan, however you want to call it. And it is only a valid charge ~~and~~ security to a maximum amount on account of principal equal to the amounts actually expended and paid by the tenants to meet its obligations, less \$2 million. So what happens is always Canada Square, the \$2 million ~~money~~ had to go in first, and then any borrowing it does on the security of the ground lease and the commitment, ~~is~~ is only security to the extent of the amount actually spent on the building less the \$2 million.

Mr. Shibley: You are talking about interim financing now?

Mr. Bradshaw: That is right.

Mr. Shibley: So that \$2 million is up-front money of any interim financing being secured against the building?

Is that right?

Mr. Bradshaw: That's right.

Mr. Shibley: Has that kind of documentation actually been entered with the institution providing interim financing?

Mr. Bradshaw: Not to my knowledge.

Mr. Shibley: That answer is a little worrisome to me, Mr. Bradshaw.

Mr. Bradshaw: I am not suggesting it is privileged ---

Mr. Shibley? No, but what I am concerned about is this, as I understand this wasn't \$2 million set aside in an account, Canada Square was to put \$2 million of its own money into the building first before it started to draw against its interim financing and the party seeking security for the interim financing was to be postponed, so to speak, to the extent of that first \$2 million, it had no security to that extent. Is that not so?

Mr. Bradshaw: So what happens is, you can't take the \$2 million out, you can't repay it out of the interim financing.

Mr. Shibley: Yes.

Mr. Bradshaw: And what happens at ~~any~~ any stage that there is a default, Hydro gets the whole ~~bundle~~ bundle back, can get the whole bundle back with assurance that the only charge on its interest will be for the amount of the cost of the work to date less \$2 million, it always has the \$2 million advantage.

Mr. Shibley: Right. And who certifies as to

August 2/73
12.10-12.15 p.m.
E.M.

H-1702-3

(Mr.Shibley)

the value of work done to date, should there be a default?

was

Mr. Bradshaw: Well, it ~~wasn't~~ rather, from Hydro's point of view I think it was rather well done because it only arises if there is a default.

Mr.Shibley: Yes.

~~And~~ Mr. Bradshaw: And then they, you know, it is a matter of fact how much money was actually spent on the thing. There is no provision, you see, for interim certification because it only applies if there is some kind of a problem and at that point the argument can be made, Hydro can say, "Well, all right, you prove, you, the lending institution, the bank, you prove that this money was used actually in the project" or you don't have any security for it, you have to go against Canada Square, so ~~that~~ that was drafted in that particular way in order to ---

Mr.Shibley: All right.

Mr. Bradshaw: It puts the onus very heavily on the lending institution and Canada Square.

~~Mr. Shibley: up to this date you say there is~~

(Tape 1703 follows)

~~and Canada Street~~

Mr. Bradshaw: Not that I know of, Mr. Shibley. Maybe Mr. Coles can assist in that.

Mr. Renwick: Where do I find my copy of that document?

Mr. Renwick: Thank you.

Mr. Bradshaw: I'm not able to help you very much on that, Mr. Shibley, because again, I wasn't involved with the finalization of this. As you see, there are several letter agreements added.

Mr. Bradshaw: They were all, as I understand it, executed

and delivered at the same time as the agreement. It's quite a job to take and substitute pages in the agreement and, it may be, as that as these final points were negotiated between the same that

(Mr. Bradshaw)

they negotiated the agreement on the 18. I'm not saying there weren't changes in the agreement after the 18th but ^{on} some of these matters it was easier to handle in a collateral fashion.

Mr. Shibley: What I'm concerned about is this, Mr. Bradshaw, I take it that the main agreement was intended to be predicated to the lending institution providing the permanent financing. Is that correct?

Mr. Bradshaw: Sure.

Mr. Shibley: Was that institution also to be in receipt of this letter agreement referable to an adjustment of rental predicated on an appraised value of the building?

Mr. Bradshaw: Yes, eventually. ~~They are~~ They are now. I don't know whether -

Mr. Shibley: That's ~~is~~ all I want to know. Are they now in possession of that?

Mr. Bradshaw: Yes.

Mr. Shibley: And was it always intended that they be in receipt of that?

Mr. Bradshaw: So far as I am concerned the dealings with the institution couldn't be brought to the form of a contract - a bond-purchase agreement - without them being aware of that.

Mr. Shibley: I don't understand that. Let's say that we're just going to them and asking them for \$45 million as being taken as the appraised value when, in fact, the appraised value was something else.

Mr. Bradshaw: I'm sorry, Mr. Shibley, you'll have to ask that again.

Mr. Shibley: I'm concerning myself now as to whether it was always ~~the~~ the intention that this separate letter agreement be ~~a~~ part of the documents provided to the permanent lending institution?

Mr. Bradshaw: It was certainly always my intention, Mr. Shibley.

Mr. Shibley: That's as far as you can go?

Aug. 2/73
12.15 to 12.20 pm
fvk

Mr. Bradshaw: I could only say that ~~a~~ in involvement with both the company "X" and -

Mr. Shibley: And if the ~~approx~~ appraised value of the building was less than \$44,400,000 was it then expected that less would be advanced on the mortgage? On the permanent finance?

Mr. Bradshaw: This provides that it has to be reduced.

Mr. Shibley: Yes, that's correct, ~~is~~ is it not?

Mr. Bradshaw: This provides that if the appraised value of the project is less than \$44,400,000 ~~then~~ then the amount of the permanent financing of the building should be reduced from the amount of \$45 million Canadian.

Mr. Shibley: All I want to do is eliminate this possibility in everyone's thinking. This is not a case where \$45 million was arranged to be borrowed. The building might cost ~~about \$44~~

(Tape H-1704 follows)

August 2, 1973
12.20 - 12.25 p.m.
M.R

(Mr. Shibley)

~~the building is valued to be approximately \$45 million~~
~~and - has an appraised value of \$43 - the monies advanced~~
in full \$45 million, with Hydro and Canada Square sharing the surplus of funds raised in that way. That's not a possibility on the basis of

Mr. Bradshaw: On the basis of the document.

Mr. Shibley: Of the way this is structured, that's clear, isn't it?

Mr. Bradshaw: That's correct.

Mr. Shibley: Okay. I only mentioned that because another witness raised that as a possibility in respect of an altogether unrelated transaction and I just wanted to cancel that out.

Now, dealing with the definition of appraised value, would you please assist the committee as to the interpretation of those words as employed in this document for purposes of establishing the rental rate?

Mr. Bradshaw: Do you want my opinion as to

Mr. Shibley: Yes.

Mr. Bradshaw: what this letter says?

Mr. Shibley: Yes, I want to know what these words are intended to mean so far as Canada Square is concerned and yourself in particular, as counsel to Canada Square who helped settle this document.

Mr. Bradshaw: - Yes, except that I didn't help settle this document in the end. It was, again, settled by Mr. Steadman.

Mr. Shibley: Yes.

Mr. Bradshaw: But as spokesman for Campbell, Godfrey and Lewis, and not necessarily, I can't tell ^{exactly} what the intention of Canada Square is but ~~in any~~ as far as I'm concerned, what it ~~means~~ ^{the net} is that before ~~that~~ lease is entered into, upon completion of the building but before the net lease is entered into,

August 2, 1973
12.20 - 12.25 p.m.
M.R.

(Mr. Bradshaw)

the Hydro can request Chaffe, MacKenzie ~~and another recognized appraisal~~ or can request Canada Square to obtain an appraisal by Chaffe, MacKenzie ~~and another recognized appraisal~~ or another recognized appraisal firm and they would use ~~the~~ normal appraisal techniques for determining the value of the property.

Mr. Shibley: What are those ~~ones~~?

Mr. Bradshaw: Excuse me, can I ~~ask~~ ^{just go on}?

Mr. Shibley: Sure.

Mr. Bradshaw: I think that the critical thing of what I have said is that it's before the execution and delivery of the net lease. That is, we are not valuing ~~the~~ a stream of income from Ontario Hydro.

Mr. Shibley: I realize that.

Mr. Bradshaw: What we are doing is valuing the project, as it's completed.

Mr. Shibley: But that's what we want to know: What is the interpretation of yourself, as counsel to Canada Square, respecting what enters upon that appraisal? You said it isn't the cash flow and I understand that. What ~~about~~?

Mr. Finlayson: Mr. Chairman, with respect, if my friend wants to ask this witness what this language means to him, I have no objection to that. But I don't like this thing being bracketed in as counsel for Canada Square, because I don't know what's going to happen when this building is completed but I'm certainly not going to find myself, if I am retained at that stage, and this hearing is over, confronted ~~with~~.

Mr. Allan: Do you think it will? ~~be~~?

Mr. Finlayson: Confronted with some kind of an estoppel as to what these words mean. Now if you wanted to just simply ask the witness as a knowledgeable person what the language means to him, I have no objection, But certainly I am not going to permit Canada Square to be put in a position where this person is interpreting a document in such a way that I may later find myself in a position where it's said that

August 2, 1973
12.20 - 12.25 p.m.
M.R.

(Mr. Finlayson)

we are stopped from putting a different interpretation on it. Now I want to make it clear I'm just being super cautious here. If you want to ask the witness what does the language mean to him, that's quite all right with me.

Mr. Chairman: Well, I think that is what he's done and your objection is on record, but this is - we have power to examine these things too, just as any other court may do and I think

Mr. Finlayson: ^{I made it very clear} Mr. Chairman, I have no objection to the question. I just say that ordinarily at this stage you wouldn't have a lawyer saying this is what the language means. ^{as a} This man is ~~here as a~~ ^{an} ~~incompetent~~ witness. He will assist you in every way he can and I have no objection to you asking him

Mr. Shibley: Mr. Finlayson, I intend to ask Mr. Moog, and that's much more direct, what his interpretation is of it and his evidence

H-1705 to follow

August 2nd, 1973

12.25 - 12.30 pm

H 1705 - 1

AA

(Mr. Shibley)

~~I think that the witness should be taken~~
~~in a different context, and I agree that all this witness can~~
do at the moment is express his own opinion, but when I get
to dealing with Mr. Moog, I do intend to try and establish,
for the understanding of the committee, what is the interpretation
in fact, of Canada Square as to this terminology, because it
is important to the committee to understand what was the real
agreement between the parties. We can leave that to Mr.
Moog's time.

Mr. Finlayson: Let's leave that ~~back to Mr.~~

You and I recognize that this witness is in a different
position.

Mr. Shibley: OK. Now, let's just - dealing
with your own view of this ~~question~~.

Mr. Bradshaw: I am afraid that after all that
I am not going to be able to help you very much, Mr. Shibley.

Mr. Shibley: How often ~~can~~

Mr. Bradshaw: This is not on the basis of
privilege or anything, but ~~that~~.

Mr. Thomson: I don't think it's fair, Mr.
Chairman, that Mr. Bradshaw, who after all is still acting
as one of the solicitors for Canada Square, ^{should} ~~be~~ be required
to answer this question.

Mr. Shibley: Allright.

Mr. Thomson: It really isn't fair at all.

Mr. Shibley: I won't press it. In the
face of the views of opposite counsel, I won't press it with
^{you}
~~this~~ witness, but I am telling ^{now} ~~you~~, I am going to ask Mr.
Moog about it.

Mr. Thomson: I am not ^{interested in} ~~concerned~~ that. I hope
I won't be here then.

Mr. Shibley: And I may ask Mr. Cooper about
it.

August 2nd, 1973

12.25 -12.30 pm

H 1705 - 2

AA

(Mr. Shibley)

Now then, there was also a letter agreement as part of the documentation to the effect that Mr. Moog undertook that he would not sell or dispose of his shares in Canada Square pending the construction of this project, as per the very last document in that ~~the~~ exhibit. It is the very last page.

Mr. Bradshaw: This is the one signed by Mr. _____

Mr. Shibley: Moog, personally. It's the very last page of the _____

Mr. Bradshaw: I don't have the exhibit. I am using my own copy.

Mr. Shibley: It is also ~~dated~~ dated October 18th.

Mr. Bradshaw: That's the trouble.

Mr. Shibley: ~~You have~~ ^{It's} got the same day.

Mr. Bradshaw: OK. ^{It's on his letterhead.} ~~pointed ahead.~~

Mr. Shibley: What's the purpose of that?

Mr. Renwick: Where would I find that?

Mr. Shibley: It's the very last page in the black-bound volume.

Mr. Chairman: I am not ^{So} sure it is in here.

Mr. Renwick: It is not in my book.

Mr. Cooper-Smith: Exhibit 101.

Mr. Renwick: Exhibit 101?

Mr. Shibley: Sorry.

Mr. Chairman: It is not in my exhibit too.

Mr. Bradshaw: Mr. Shibley, I was not involved personally in the preparation of this document, but again, on behalf of Mr. Steadman, I can venture the opinion ^{that} and I do know that Hydro's special counsel had expressed concern that they continue - that they were dealing with Mr. Moog at that point and that they continued to ~~deal~~ ^{that} with Mr. Moog and that he wouldn't dispose of his interest in Canada Square to somebody else, with the contract and the company, and go off and sail full time or something else.

August 2nd, 1973

12.25 - 12.30 pm,

H 1705 - 3

AA

(Mr. Shibley)

Mr. Shibley: There is nothing more to it than that?

Mr. Bradshaw: There is nothing sinister in *connection with* it or ~~.....~~

Mr. Shibley: No, I didn't mean to suggest there was anything. I just wanted an explanation of it, Mr. Bradshaw. That's all there is to that.

Now then, can you help us? We have got only a certain amount of information as to the date of execution, the date of delivery and the date of registration of these various documents and I think it is very important ~~that~~ now for us to establish, once and for all, when these ~~documents~~ documents were signed, when they were delivered, in executed form, and when they were registered, or ^{are} expected to be registered. If you take the documents, one by one, Mr. Bradshaw, I'll leave it to you to ~~.....~~

Mr. Bradshaw: The reason that I am fiddling around here is, Mr. Bell knows, he did a pretty good job in my files this morning.

Mr. Shibley: Yes.

Mr. Bradshaw: And I suspect he knows more about it than I do at this point.

Mr. Shibley: What bothers me, I might tell you, is that I saw a documentation as late as December, indicating some of the documents were yet to be registered ~~.....~~

~~Mr. Bradshaw: Oh no. Nothing was registered until~~

H 1706 - 1 follows

~~(Mr. Shibley)~~

~~as late as December indicating some of the documents were not
to be registered~~

Mr. Bradshaw: Oh, well no, nothing was registered until the ground lease was registered, and the ground lease has been registered. The ground lease has been executed, registered, and —

Mr. Shibley: I'll explain my purpose, Mr. Bradshaw. This committee is very interested to know whether or not the permanent financing was concluded as at the time the commitment was made by Canada Square to Hydro, or whether the permanent financing was still an outstanding matter as at that time?

We don't even know yet ^{if} we know when Hydro — I think Mr. McCallum has told us when Hydro signed the documents — but we don't seem to know yet when Canada Square signed them, and we don't know when they were delivered; we don't know when they were registered.

I would be quite content if you ⁱⁿ collaboration with Mr. McCallum, would prepare ⁱⁿ written form, a chronology of the, by description, of the documents, their execution by Hydro, their date of execution by Canada Square, their date of delivery, and their date of registration or expected registration.

Mr. Renwick: And the effective date as between the parties, if that varies from the date of delivery.

Mr. McCallum: Say it again, I didn't make a note of it.

Mr. Renwick: The effective date, if that is different from the date of delivery as between the parties.

Mr. Genest: I think, Mr. Shibley, there was an exhibit by — an affidavit ~~was~~ was there — by Mr. Easson? *Is that not something to do with*

Mr. Shibley: It's incomplete Mr. Genest. I'm sorry, and I think it's really important that you and counsel to Canada Square collaborate to produce for us, and I'll accept it in written form, the chronology in question.

Mr. Bradshaw: Mr. Shibley, can that await Mr. Steadman's return, because he was involved with that, and I wasn't?

Mr. Shibley: When is he going to be back?

Aug. 2, 1913
12:30 - 12:35 pm
JLP

Mr. Bradshaw: I believe it will be next week or the week after. I can only go on the basis of the correspondence. I can't fill in all the gaps, especially when you talk about effective dates, ~~for the~~ ¹⁸⁹³ dates of delivery. I am sorry, I just have no knowledge of that.

Mr. Shibley: Well, all I can ask you to do is your best.

Mr. Bradshaw: But mine would be based on this. Now, if Mr. McCallum is au fait the matter then, *that'll be fine.*

Mr. Shibley: Let's see how you make out. If it has to wait, it will wait.

Mr. Bradshaw: Since ^{I wait} I'd like to do it immediately if I'm going ^{to} ~~to~~. Could you give me the things you want?

Mr. Shibley: ^{Of course,} There ~~would~~ ^{is} have to be a description of each document; the date of its execution by Hydro; the date of its execution by Canada Square; the date of delivery of the executed documents; the date they became effective; and the date of registration or anticipated registration.

Mr. Bradshaw: Okay.

Mr. McCallum: Mr. Shibley, I wonder if I can just ask - I would imagine that there will be trouble in anyone trying to ascertain the date that the final documents were executed by Canada Square unless there ~~re~~ would be a letter that sent them all over in some comprehensive form, all signed, and says so. I wonder if the effective date isn't more relevant to you - in other words, a continuation of the affidavit that we already filed. You will remember there were some documents that Mr. Easson had to give you an affidavit on.

Mr. Shibley: I'm sorry, Mr. McCallum, I'd like both if you can give those to me.

Mr. McCallum: Okay. Well, it's my friend, Mr. Bradshaw's problem not really mine. I don't think we'll have it, but we'll ~~look~~ ^{look} certainly look.

Mr. Shibley: ~~Mr. Bradshaw, I am going to ask you some questions now, and I want to make it clear at the outset.~~

(Tape H-1707 follows)

August 2, 1973
12:35 - 12:40 p.m.
B.G.

Mr. Shibley: I am going to ask you some questions now, and I want to make it clear at the outset that what I want from you is your knowledge or information other than any knowledge or information you ~~might~~ might have from your clients, Canada Square. And I want it understood by you that the questions I am about to ask you are intended to encompass the whole of the time to the present date, so that any knowledge or information you have as at ~~this~~ this time, other than what might have come to you in what has been claimed as privileged circumstances, is intended to be elicited from you. Are you clear as to that?

Mr. Bradshaw: Yes.

Mr. Shibley: Do you have any knowledge or information respecting difficulties arising out of the manner of selecting Canada Square and the reasons for selecting Canada Square during the period June, July and August 1972?

Mr. Bradshaw: I am sorry, Mr. Shibley, I am going to ask you to repeat it, because it is the bit about the difficulties^{it} that I am having trouble with.

Mr. Shibley: All right, I want to know what if any knowledge or information you have respecting difficulties arising out of the manner of ~~the~~ selecting ~~Canada~~ Canada Square and the reasons for selecting Canada Square, as they evolved during the period June, July and August 1972.

Mr. Bradshaw: Could you tell me what you mean by difficulties?

Mr. Shibley: Yes, I will help you in this respect. There has been evidence that during the month of July, Mr. Smith of Ellis-Don was complaining ~~about~~ about the manner of selection of the ~~developer~~ developer to do this project. On July 14th he recorded his complaints in a letter to Mr. Cronin. There is also evidence that some time prior to August 19, Mr. Smith similarly

H-1707-2

August 8 2, 1973
12:35 - 12:40 p.m.
B.G.

(Mr. Shibley)

recorded his complaints to Mr. Dillon of Task Force Hydro, who in turned referred him to Mr. ~~Genest~~ Seguin. There is also evidence that Mr. Dillon spoke to Mr Seguin about these problems, and Mr. Seguin suggested that Mr. Smith should write him a letter, which letter was in fact written - and,

Mr. Genest: No, that's not right, Mr. Shibley.

Mr. Shibley: No, Seguin said he didn't want to meet with -

Mr. Genest: Seguin did not suggest that.

Mr. Shibley: Well, Seguin said he didn't want to meet him.

Mr. Genest: That's right.

Mr. Shibley: I thought the evidence was that if he wanted to communicate with him he should do it in writing. But in any event he didn't want to meet him, and Smith was then in written communication with Mr. Seguin, I believe by letter dated August 21, I could stand corrected as to the precise date, August 21, so that was in the months of July and August, there ~~was~~ was already this evidence of these difficulties. I should also tell you to complete your own information, Mr. Bradshaw, that on July 19 ~~there~~ there was a draft of a press release submitted by Hydro to Mr. Fleck.

Mr. Genest: Not ~~on~~ July 19th, I think it was July 21st.

Mr. Shibley: Thank you, July 21, but that the actual press release was not published until August 25th. There is also evidence that by document of August 25th suggested answers to questions were prepared within Hydro, among which was - 'Why was Canada Square selected?' ~~There is also evidence that...~~

(Tape H-1708 follows)

August 2, 1973
12.45-12.50 p.m.
M.F.

H - 1708 - 1

(Mr. Shibley)

~~that was within Hydro among which was why was Canada Square~~
~~selected? Now~~ ^{known} the background of all that testimony
I would like to ~~know~~ from you what is your knowledge and
information as to the difficulties raised by the Ellis-Don
complaints at that time?

Mr. Bradshaw: I have none. None whatsoever.

Mr. Shibley: You haven't? All right. And then with
respect to the period of October, November and December, of
1972, do you have any knowledge or information referable to
the complaints of Ellis-Don or referable to the reported
communications to Smith as has been the subject of a great deal
of publicity, and which was the subject of an article in the
Globe and Mail on April 30th, 1973? I don't have to describe
that further to you?

Mr. Bradshaw: No.

Mr. Shibley: Do you have any knowledge or information
in respect of those matters?

Mr. Bradshaw: Was it in the press at that time? During
those months?

Mr. Shibley: There was a press report on April 30th ----

Mr. Bradshaw: That was the first time was it?

Mr. Shibley: That would be the first occasion on
which you had any awareness, is that right?

Mr. Bradshaw: That's right.

Mr. Shibley: But have you even since that time
received any information referable to the subject matter of that
article?

Mr. Bradshaw: You mean Smith's complaints and -----

Mr. Shibley: Smith's complaints, etc, yes.

Mr. Bradshaw: And the alleged threat and all the rest?

Mr. Shibley: Yes.

Mr. Bradshaw: I have no information at all about that.

August 2, 1973
12.45-12.50 p.m.
M.F.

H - 1708 - 2

Mr. Shibley: Thank you. I want shown to you what is exhibit 178, being a letter dated May 11th, 1972, -----

Mr. Renwick: May 16th.

Mr. Shibley: I am sorry, May 16th, thank you. This is the copy with notations on it and again, Mr. Bradshaw, without offending any alleged privilege, I want to know whether you have any knowledge or information that might enlighten us as to the content of the notation on this document, and in particular the suggestion that the Ministry of Government Services be involved. Was it ever part of your involvement on behalf of Canada Square that there was any kind of communication whatsoever from the Ministry of Government Services?

Mr. Bradshaw: No.

Mr. Shibley: So that to that extent again you can cancel out any involvement of that ministry? Is that correct?

Mr. Bradshaw: So far as I know.

Mr. Shibley: And I think you have already told us that so far as you know there was no involvement with Treasury Board either?

Mr. Bradshaw: That is correct.

Mr. Shibley: Now there is only one other thing I would ask you to do for me and it is the last thing I am going to ask of you, you were very helpful in filling out a chronology to some extent for me yesterday. I think I know of the attendances you had, without knowing the content, but the ones you had in 1971 which were in, I believe you said October and November of that year, with Johnson of A. E. Ames.

Tape H - 1709 follows

August 2nd, 1973

12.50 - 12.55 pm

H 1709 - 1

AA

(Mr. Shibley)

~~wherein I believe you said October and November of that year~~
~~was not the case~~ And then the next thing you did ~~and~~
we go to August of 1972 and I am concerned to know from you
now ~~--- I~~ think I have asked you to try and collect this [^] what
were the ~~--- without~~ telling me what was said, what were the
dates of your attendances by phone or at meetings ~~---~~

Mr. Bradshaw: During that gap?

Mr. Shibley: During that gap.

Mr. Bradshaw: We ~~agreed~~ ^{discussed} ~~the~~ ^{the} ~~---~~

Mr. Thomson: ~~Yes~~ We did.

Mr. Bradshaw: You want the dates?

Mr. Shibley: Yes.

Mr. Bradshaw: OK. On January 27, 1972 [^] nothing
happened in December - you will recall that on January 1st,
tax reform came into effect. That was a pretty busy time
with other things.

Mr. Shibley: Right.

Mr. Bradshaw: January 27th, I telephoned Mr.
Coles, re the Hydro project, and I attended upon him at a
meeting. Then, Mr. Shibley, I might say, that some of these
things I am going to tell you, meetings and telephone calls
I am going to tell you about may not have ^{had} anything to do with
Hydro at all, because the docket ~~---~~

Mr. Shibley: That's fine.

Mr. Bradshaw: ~~---~~ sometimes - what I have
done is I have eliminated the ones that were clearly not the
Hydro.

Mr. Shibley: Right.

Mr. Bradshaw: ^{On} ~~And~~ some of them I had a note
about Hydro and others I didn't.

Mr. Shibley: Right.

Mr. Bradshaw: And on the 28th, I met with
officers of Canada Square and I telephoned them. And for the

August 2nd, 1973

12.50 - 12.55 pm

H 1709 - 2

AA

(Mr. Bradshaw)

sake of your chronology, you might ^{the} the proposal is dated at that time.

Mr. Shibley: Yes.

Mr. Bradshaw: And I was involved with that, as I have already testified.

On February 24th, I talked to Mr. Coles and I haven't the slightest idea what I talked about. On the 27th of March, I talked to Mr. Moog. On ~~the~~ the 28th of March, I met with officers of Canada Square, and again on the 29th I met with officers - I am sorry - I telephoned Mr. Moog, ~~and~~ Again, to tie that back in, it turned out that that is the date of the memorandum you questioned me on yesterday. It wasn't ~~dated~~ dated, but the copy you gave me had written on it ~~my~~ my initials and the date.

April seems to have been a quiet month. On May 1st, I met with Messrs. Coles and Moog to discuss various matters. It might have included the Hydro. It might not have. On the 2nd, I talked to Mr. Coles on the telephone, and again on the 30th. On the 23rd of June, I talked to Mr. Moog on the telephone and on the 26th, I met with Mr. Coles. Again, I don't know what - I've got to discuss various matters so I don't know what we discussed.

On July 25th, I was on holidays, and Mr. Steadman met with Messrs. Moog and Coles and then on August 3, I met with Mr. Candy.

Mr. Shibley: And I think you have given us the balance of the chronology the other day as from August 3 forward.

Mr. Bradshaw: Well then we started going full bore. I was preparing the documents and I was ~~telephoning~~ telephoning them and talking to them frequently.

Mr. Shibley: Yes.

Mr. Bradshaw: You know when I was with them,

August 2nd, 1973

12.50 - 12.55 pm

H 1709 - 3

AA

(Mr. Bradshaw)

it was privileged and the ones I told you about, the other ones. But I was very much involved in preparing documents and negotiating until October 23rd, when Mr. Steadman took over.

Mr. Shibley: Now, just within the period you have just covered, did you have any ~~attendances~~ attendances on Ames and Company, Equitable or "X" company? In the period you have just covered, January through to August, 1972?

Mr. Bradshaw: No, we went to Equitable on August 10.

Mr. Shibley: That was the first _____

Mr. Bradshaw: And _____

Mr. Shibley: Is that the first time you went to Equitable?

Mr. Bradshaw: In connection with this transaction, Yes.

Mr. Shibley: Can you _____

Mr. Bradshaw: I didn't meet with Johnson until October 2, and then on October

H 1710 - 1 follows

(Mr. Bradshaw)

~~Mr. Bradshaw~~ October 2, and then on October 4 we went to see company X.

Mr. Shibley: Now then you still left me with a gap between October 4 and October 23, which was the last period of your involvement. Can you give me your attendances in that period of time?

Mr. Bradshaw: Oh gee, we are going to bore everybody with those. It goes on and on and on.

Mr. Shibley: This is the negotiating period, is that it?

Mr. Bradshaw: Yes.

Mr. Shibley: Okay we won't bother with that. Just so that - I'm hoping that I've got this clear - it was in the fall of 1971, namely in October and November, that you were talking to Ames about Swiss money, and that was not a put-through or wraparound or anything. You were just talking to them about Swiss moneys?

Mr. Bradshaw: Oh no, I am sure that during those conversations we were talking to Mr. Johnson about ^{this} ~~the~~ wraparound in which he/ ~~and~~ was going to involve Canadian institution.

Mr. Shibley: But you hadn't yet gone near Equitable. Then Equitable enters the scene after August 7 - is that correct?

Mr. Bradshaw: Well, you showed me an Exhibit that Mr. Moog had recorded a conversation with Art Keegan.

Mr. Shibley: That's right. I'm sorry, you're right. Filter it out. On June 21, he's already indicated as being in communication with Equitable. But you're not yet involved?

Mr. Bradshaw: That's right.

Mr. Shibley: Your first involvement with Equitable was after August 7 when the phone call was made to Switzerland, and that source of funds was cancelled out. Is that correct?

Mr. Bradshaw: Correct.

Mr. Shibley: Then you started upon your efforts with Equitable ~~Equitable~~ during the period August 7 and following, and continued those to the end of September let us say, within which period of time you were being exercised ^{about} ~~with~~ the withholding tax problem. Is that right?

Mr. Bradshaw: Correct.

Mr. Shibley: And because of that problem, in early October you then swung over into X company because they didn't have a problem; they had offsetting deductions.

Mr. Bradshaw: That's right.

Mr. Shibley: And is that what you meant when you said that Equitable assisted in your dealings with X company? Did they, in part, say "well, we've got this problem, but X company may not have the problem" and that's when you swung over?

Mr. Bradshaw: They didn't say that to me, no.

Mr. Shibley: I see, all right. But, in any event, that was a sequence of events, and so, by going to X company, you eliminated the problem of withholding tax, and you also eliminated the need for any consideration of the creation of a Crown corporation. Is that right?

Mr. Bradshaw: Correct.

Mr. Shibley: Was it ever any part of your discussions with Equitable, following August 7, that it would be a wraparound deal, or a put-through deal?

Mr. Bradshaw: I don't believe so Mr. Shibley.

Mr. Shibley: And was it ever any part of your discussions with X company from the time you started dealing with them, which I gather was on October 2, 1972, that it would be a wraparound or a put-through deal?

Mr. Bradshaw: No.

Mr. Shibley: I don't think I have any further questions
Mr. Chairman.

Mr. Renwick: Mr. Chairman, I have got a couple of questions. Do I take it, Mr. Bradshaw, that from October 4 through to October 23, that so far as the US lender was concerned, you had the carriage of two sets of negotiations, that is the settlement of the documentation with Hydro, with Mr. McCallum and his ^{associate,} ~~associate,~~ or his partner with Hydro, and at the same time you were settling the documents with the US lender?

~~Mr. Bradshaw: No, we weren't settling documents with the US lender at that point~~

(Tape H 1711 follows)

August 2, 1973
1:00 - 1:05 p.m.
B.G.

(Mr. RENwick)

there, and at the same time you were settling the documents with the U.S. lender.

Mr. Bradshaw: No, we weren't settling documents with the U.S. lender at that point, Mr. RENwick. We had made our submission to the management and they said that they thought it looked good and they were going to take it up with the finance committee of the board.

Mr. Renwick: Right.

Mr. Bradshaw: But we had no, apart perhaps, I have no record of ^{it of} having talked to them; I don't know whether additional information was furnished during that period by Mr. Coles or somebody, but we ~~were~~ weren't in negotiations.

Mr. Renwick: No, I was thinking of the strict legal negotiation ~~negotiation~~ of the settlement.

Mr. Bradshaw: No, they didn't start until this year.

Mr. Renwick: Did not start until -

Mr. Bradshaw: This year.

Mr. Renwick: - this year.

Mr. Bradshaw: That's right. We got the, the letter was sent to

Mr. RENwick: And the U.S. lender was not furnished with any of those documents, prior to the time they were executed with Hydro, so far as you know?

Mr. Bradshaw: So far as I know the board members had ~~not~~ consulted though, before the documents were executed.

Mr. Renwick: All I was - I want to keep it short, I don't ^{to} want to get involved in a long dissertation. ~~It~~ It seems to me that the basic lease, the come hell or high water lease, was a crucial piece of documentation from the point of view of the U.S. lender.

Mr. Bradshaw: Yes.

Mr. Renwick: And if that was settled with Hydro on

August 2, 1973
1:00 - 1:05 p.m.
B.G.

(Mr. Renwick)

or about November 1st and signed, or the basic contract documents including that as a schedule were signed at that time, had there been any discussions with the U.S. lender that the substance of that agreement was ~~going~~ going to be acceptable to them?

Mr. Bradshaw: ~~That~~ It was modelled on the precedent that had been obtained from Equitable. And, the documentation, the agreement provides on page 18 -

Mr. Renwick: Right.

Mr. Bradshaw: - Section 27, that "the net lease should be in the form annexed, Schedule D completed by making the appropriate insertions in accordance with the provisions of this agreement, and with such amendments, if any, as may be agreed by Ontario Hydro and Canada Square, or as may be reasonably required by the mortgagee or proposed ~~new~~ mortgagee."

Mr. Renwick: All right, well that just leads to an obvious other question, has there been a necessity to ~~negotiate~~ negotiate any amendments of consequence, or have you reached that point?

Mr. Bradshaw: We haven't; I know of - no, probably we haven't reached ~~the~~ that point.

Mr. Renwick: Right. Was it any part of your involvement ~~with~~ with the U.S. lender that they expected or it was proffered on behalf of Canada Square, that the basic document would contain the guarantee of the Government of the Province of Ontario.

Mr. Bradshaw: At the ~~first~~ initial meeting, yes.

Mr. Renwick: At the initial meeting it was.

Mr. Bradshaw: Yes.

Mr. Renwick: And you indicated to me yesterday that on October 23rd, which I gather was the date that you ~~had~~ ceased to be involved in the negotiation, was the date on which you knew that that had been withdrawn, and that you were surprised.

Mr. Bradshaw: Yes.

H-17118-3

August 2, 1973
1:00 - 1:05 p.m.
B.G.

Mr. Renwick: Do you know whether the U.S. lender was

~~surprised~~ surprised, or raised a question about that?

Mr. Bradshaw: Oh, I don't know of my own knowledge.

Mr. Renwick: So that would be because Mr. Steadman was handling the rest of the negotiations.

Mr. Bradshaw: Yes, or that it was done directly by Canada Square.

Mr. Renwick: I see.

Mr. Bradshaw: That was the thing that sprung to my mind, of course, because our negotiations with the U.S. lender had been on the basis of the Province of Ontario guarantee of the lease payments. And that was when, when I discovered that that was a point I ~~was~~ raised. But I don't know what -

Mr. Renwick: You don't know what the ~~consequences~~ are.

Mr. Bradshaw: No, but the commitment was issued without it.

Mr. Renwick: And I assume that if there is any need to do so that the person in your firm that would have knowledge of that would be Mr. Steadman?

Mr. Bradshaw: Yes, he would be very unhappy that I turned him in, but -

Mr. Renwick: I am sure of that.

Mr. Bradshaw: He is your boy.

Mr. Renwick: I am not suggesting I want to call him just on any chronological need to call him, unless this matter becomes of some consequence.

Mr. Bullbrook: I just have two questions, if I may.

Mr. Chairman: Yes.

Mr. Bullbrook: One residue of confusion in my mind. When Mr. Allan brought up this morning the consequences of the interest rate, vis-a-vis the risk or benefit of exchange rate fluctuation, I took it that you somewhat agreed with Mr. Allan that this might well have been a consideration of Hydro in the negotiations. And I can't understand that in view of the fact

H-1711-4

August 2, 1973
1:00 - 1:05 p.m.
B.G.

(Mr. Bullbrook)

that Hydro didn't know the rate of interest.

Mr. GEnest: We had a pretty educated guess, Mr. Bullbrook, in a document that is an exhibit we calculated in a Mink- Candy report on page 21. ~~44~~

(Tape H-1712 follows)

August 2, 1973
1.05-1.10 p.m.
M.P.

H - 1842 - 1

~~Mr. Bradshaw:~~
~~Mr. Bullbrook, in a document that I submitted to you~~
~~the day before yesterday, I said:~~
Mr. Bradshaw: Mr. Bullbrook, are you confusing rate of interest and rate of exchange?

Mr. Bullbrook: No, I thought that Mr. Allan had said in effect that part of the consideration in the negotiation in accepting the exchange rate risk or benefit by Hydro, that they might well have taken into consideration the fact that they would get a lower rate of interest in the United States than in Canadian funds.

Mr. Bradshaw: Traditionally the U.S. rates are a little lower than Canadian.

Mr. Bullbrook: Yes. I can't understand how that could have been part of their considerations when they didn't know the rate of interest that was being obtained.

Mr. Bradshaw: I wish you would ask that of somebody from Hydro because, you know, the only guy I met was Mr. Candy, and he is an architect.

Mr. Bullbrook: Yes, the only reason I brought it up with you I thought that you had agreed that that was part of the consideration in the negotiations.

Mr. Bradshaw: It would be if I were negotiating for Hydro, but it wouldn't - I think you ought to ask Mr. Nastich because he has got, you know, he is an expert on foreign exchange, and apparently he has got lots of it.

Mr. Bullbrook: I see. Thank you.

Mr. Chairman: Any other questions?

Mr. R. G. Hodgson: Yes, Mr. Chairman, I just have one.

Mr. Bradshaw - and I don't want you to name any institution in this regard - but do you know of any lending institution throughout the world, other than government, that would have such a board as Treasury Board?

August 2, 1973
1.05-1.10 p.m.
M.F.

H - 1712 - 2

Mr. Bradshaw: A lending institution or a borrowing institution?

that would have
Mr. R. G. Hodgson: Either one within the structure of Treasury Board, ~~any~~ other than government?

Mr. Chairman: Or a similar name?

Mr. R. G. Hodgson: Well a name of that -----

Mr. Bradshaw: Oh, I see.

Mr. Chairman: Any other body called treasury board, is that what you are getting at? They have got one in Afghanistan I think.

Mr. Bradshaw: But you are saying other than government?

Mr. R. G. Hodgson: Other than government yes.

Mr. Chairman: Oh, I am sorry, other than government?

Mr. Bradshaw: Well I haven't run into one.

R. G. Hodgson: Okay.
Mr. Chairman: Any other questions? Mr. Bradshaw, I think the hour has arrived.

Mr. Bradshaw: Thank you very much.

Mr. Chairman: Well thank you very much. You have been most helpful and, as I say, the other day we got into trouble with calling somebody an expert, I don't want to call you an expert, but thank you very much for all the assistance that you have given to us and I hope that the rest of your summer holiday will be -----

Mr. Allan: Uninterrupted.

Mr. Chairman: Uninterrupted, I guess, and joyful and relaxing.

Mr. Walker: However, don't leave town in case we need you.

Mr. Chairman: Now, just before everybody else goes, we ran into a little difficulty yesterday in some of this not knowing where counsel was ~~was~~ taking us, and some of us wanted to find out. I would like to see that we re-establish that contact with him in a session for the committee only, and I am going to suggest that this afternoon the committee, with our clerk, but without

August 2, 1913
1.05-1.10 p.m.
M.F.

H - 1712 - 3

(Mr. Chairm an)

any recording people and without any other counsel, just the committee members, our counsel and our clerk, that we meet here in private session to reconsider or to consider where we are going.

Now I think we are all agreed with that. I spoke to Mr. Renwick before he left and he was agreeable to it. As a matter of fact he suggested it yesterday and I thought it would be unfair to Mr. Bradshaw that we go into it at that time, but he is content that we should do it this afternoon, ~~and~~ I would then propose that ~~we~~ we do not continue with evidence, and I assume it will be Mr. Moog on Tuesday morning at 10 ~~00~~'clock.

Now if there are no strenuous objections -- I am ready to hear objections from committee members, let me put it that way - to proceeding in that way.

Mr. W. Newman: Mr. Chairman, do you think we are going to be in executive session for four hours?

Mr. Chairman: No, I don't, and I was going to assume that we wouldn't come back here until 2.30.

Mr. Walker: That is three and a half hours.

Mr. Chairman: Well I would hope ^{at least} I would expect, that we won't be less than an hour and a half anyway, knowing if each one of speaks for 10 minutes, and if nine of us take part in it, that is 90 minutes right there, and I think all of us tend to take part in it. I think it would be worthwhile.

~~Mr. Stubbins is his no use starting anything now~~
Mr. W. Newman: Well I am just thinking, Mr. Chairman,

in the expediency of time, which I am sure we will be talking about in executive session, that if there is any way we can get Mr. Moog ^{at least} ~~back on for~~ back on for two hours this afternoon I would like to see us try and do it, That's all.

Tape H - 1713 follows

August 2nd, 1973

1.10 - 1.15 pm

H 1713 - 1

AA

~~And we can get Mr. Moog back on for at least two hours this afternoon and I would like to see you see and do it, that's~~
~~all~~

Mr. Finlayson: Well, Mr. Chairman, I am quite prepared to come back here after 2.30 with Mr. Moog and await your pleasure.

Mr. Chairman: Sorry, I can't hear you Glen.

Mr. R. G. Hodgson: Why don't we set a time to resume public hearing, even though we haven't completed our internal discussion.

Mr. Chairman: I am trying to listen to two people at one time. Mr. Shibley is indicating to me that he has good number of items to tell us about and that it will take longer than a short period. I am sorry, I didn't even get your point yet Glen.

Mr. R. G. Hodgson: All I was suggesting is if we couldn't see at this moment how long we were going to be, then we could set a definite ~~definite~~ time.

Mr. Chairman: Mr. Shibley, I think you are indicating you will be at least two hours.

Mr. Shibley: Well let's put it this way. Whatever is left of the afternoon will not be worth coming back for and holding everybody on standby. That's my feeling, anyway.

Mr. Chairman: So, if we are agreed and I think we have consensus that the committee itself will return here in ~~public~~ private session at 2.30 and the public hearing will recommence Tuesday morning next, at the hour of 10 o'clock.

Mr. Allan: Mr. Chairman, I wonder . . .

Mr. Chairman: Mr. Allan.

Mr. Allan: . . . if the members of the committee could be on time.

Mr. Chairman: This afternoon? Yes, I always come then. Ladies and gentlemen, we are adjourned.
The committee adjourned at 1.07 p.m.

H 1714 - 1 follow

APPEARANCES

Committee members:	J.N. Allan
	J.E. Bullbrook
	I. Deans
	M. Gaunt
	L.C. Henderson
	R.G. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC
Assistant to committee counsel:	J.P. Beil
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square counsel:	Douglas Laidlaw, QC
	Blair Cowper-Smith
	G.D. Finlayson, QC
Campbell, Godfrey & Lewtas and representing Mr. Moog	J.A. Bradshaw
Representing Mr. Bradshaw	Claude Thomson

List of exhibits introduced during this sitting
appears on the next page.

INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Page</u>	<u>Description</u>
197.	1682-1	Chronology of Swiss financing by Hydro, prepared by M. Nastich
198.	1682-2	Exchange rate fluctuation tables prepared by J. A. Bradshaw

1714 - 1711

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Tuesday, August 7, 1973

Morning session



LEGISLATURE OF ONTARIO

SELECT COMMITTEE - HYDRO HEADQUARTERS

The committee met at 10:10 o'clock, a.m. in the members' board room.

Mr. Chairman: Ladies and gentlemen, I call the meeting to order. You will recall that when we last met Thursday afternoon we were meeting in camera with the counsel and committee members only. At that time, our counsel presented to us some evidence which ~~had~~ had come to his attention, we considered the relevance of that evidence and the members of the committee were unanimous that it was relevant and that as a result we should present that to one of our own members, a member of the House, Mr. Vernon Singer. ~~When~~ When he realized the relevancy of that information himself then he requested that he be allowed to give evidence to this committee.

On that basis, Mr. Singer is here today to present some evidence and he will be our next witness. However, following that, when it was mentioned not only to Mr. Singer but Mr. ~~Nix~~ Nixon, and Mr. Nixon has also requested that he ~~come~~ come forward to give evidence, so the plan is that Mr. Singer will give evidence next, followed by Mr. Robert Nixon.

Now, is there anything I have ~~mis~~ misstated there?

Mr. Shibley: Well, I just want to make it clear, I think you have clearly stated what the unanimous view of the committee was, sir, but I think that what was communicated to Mr. Singer was that it was the view of the committee that it was relevant; I think it is not quite correct to say that he even then understood why it was relevant. ~~Just to make that~~ ~~Mr. Chairman: No. No. Mr. Shibley:~~ Just to make that much clear.

Mr. Chairman: All right. Well now, with that

August 7/73
10.10-10.15 a.m.
E.M.

H-1714-2

(Mr. Chairman)

in mind and with that I would ask that Mr. Singer come forward if you would, sir. Just to this microphone here.

VERNON SINGER, sworn

Mr. Shibley: Mr. Singer, I know you have an opening statement. Would you wish the statement to be distributed now or after you have completed making it?

~~xxxxxx~~ Mr. Singer: ~~I~~ I think perhaps it could be distributed now, Mr. ~~Chairman~~ Shibley.

Mr. Shibley: All right.

Mr. Singer: ~~Are~~ ^{I've} made copies available to you.

Mr. Chairman: I think we all have copies now, Mr. Singer.

Mr. Singer: Thank you, Mr. Chairman.

Mr. Chairman, I have asked for permission to appear here today as a result of certain interviews I have had with Mr. Shibley in recent days. It was suggested to me that in view of the fact that he had certain information which he felt related to the inquiry of this committee and which might possibly involve me, ~~that~~ he explore them further with me. Mr. Shibley and I had full, & frank and open discussions on July ~~28th~~ 27th in Mr. Robert Nixon's office in Queen's Park. ~~May I say on the way by I was asked to attend at that meeting without any forewarning or~~

(Tape H-1715 follows)

Aug. 7/73
10:15-10:20 am
PLG

(Mr. Singer)

~~IN CONFIDENTIAL FILE~~

May I say, on the way by, I was asked to attend at that meeting without any forewarning or foreknowledge of what was to be discussed and I did immediately attend.

In subsequent telephone interviews and again on August 3rd, in my law office in Toronto^(C) relating to two specific matters which had come to his attention.

These matters were:

1. A copy of a letter tabled by Premier Davis in the Legislature on Friday, April 27, 1973 from George Gathercole to Mr. Davis, summarizing circumstances relating to the Hydro contract; and
2. The matter of ^acurrent legal retainer I have with Mr. Gerhard Moog, which commenced on August 23, 1972.

I did indicate to Mr. Shibley in my discussions with him, as well as in my letter to him of July 30th, that I failed to understand the relevance of the matters we discussed, to the terms of reference of this Select Committee. The terms of reference are:

"To examine and review the matter of and the circumstances surrounding the agreement for the construction of the new head office for Hydro."

Some of the points I would like to draw to the attention of the committee which I had made with Mr. Shibley are:

- 1) I have had a history of solicitor-client relationship with Mr. Moog going back over 13 years;
- 2) Our relationship had dealt only with legal matters concerning land use;
- 3) My services to Mr. Moog have never had any reference to any of his dealings with or on behalf of Hydro;
- 4) I have no knowledge of any of the details, or of the problems, or of the financing relating to the Hydro contract, other than that which was discussed in the Legislature or appeared in the press;

(Mr. Singer)

- 5) I am a member of an Opposition party at Queen's Park and not ~~not~~ only would it be unlikely that I would be consulted about the awarding of a Hydro contract, or any other government-related contract, but the fact is ~~not~~ in fact, since my first election as a member of the Legislature in 1959, never once has my opinion been sought on any such contract, nor in fact was I aware of this Hydro contract until after it had been awarded.

I ~~also~~ discussed with Mr. Shibley in ~~my~~ general form my retainers with Mr. Moog, and have also made available to Mr. Shibley a detailed summary of my ~~my~~ files, and a complete disclosure of all political donations I have received from Mr. Moog, or from any of his companies.

The disclosure has been made with the approval and waiver of privilege by Mr. Moog.

I would like to comment more specifically on the two matters which Mr. Shibley raised with me:

- 1) The letter Mr. Davis tabled in the Legislature was in response to enquiries addressed by Mr. Nixon to the Premier in the Legislature, regarding the awarding of the Hydro contract. The particular copy Mr. Shibley showed ^{and told me} me ~~me~~ had come from Mr. Moog's files, ~~and~~ ~~and~~ had an indication on it that it had been received from me.

As I advised Mr. Shibley, I had in fact, ^{and} on my own initiative, provided a copy of this letter to Mr. Moog which was a document that obviously would be of considerable interest to him, and because, it having been tabled in the Legislature, it was then available to any member of the public. At no time did I discuss this document with him.

All of the time I have been in public office, I have regularly made available to my constituents, friends, clients and often to complete strangers, copies of public documents which I have felt might be of interest or concern to them, or which they might have asked me to provide. I

(Mr. Singer@)

would imagine, Mr. Chairman, that this type of courtesy would be carried on by most people in public office, and probably by ~~most people~~ all members of this committee.

- 2) Mr. Shibley raised with me the matter of my current retainer with Mr. Moog. This retainer commenced on August 23, 1972, in connection with certain problems affecting land use, and arising out of ~~my~~ property holdings of Mr. Moog's various companies in the city of Toronto in the square block bounded on the north by Eglinton Avenue, on the east by Yonge Street, on the west by Duplex Avenue; ~~and~~ and on the south by Berwick Avenue.

This matter was, when brought to me, and continues to be, a matter of great importance to the activities of Mr. Moog's companies, and it has important elements of great urgency attached to it. Some of ~~these~~ the problems presented to me have already been resolved, and others are of a continuing nature which demand constant and careful attention.

Tape H 1716 follows

August 7/73
10.20-10.25 a.m.
E.M.

H-1716-1

(Mr.Singer)

~~resolved, and others are of a continuing nature which demand
constant and careful attention.~~

My retainer commenced on August 23, 1972, and I understand that ⁱⁿ at this particular point I am ^a little difficulty, Mr. Chairman, because I had great difficulty in finding when the contract was actually signed.

Mr. Shibley: So had we that difficulty.

Mr.Singer: I understand that the contract was signed at an earlier date, I don't know and I haven't heard your evidence.

I categorically state there is nothing in my files relating to this retainer or in any other of my files concerned in any way with Mr. Moog's relationship with Hydro.

Nor ~~have~~ have I ever been consulted by Mr. Moog or by anyone else on his behalf, in relation to Hydro;

Nor ~~have~~ have I ever given any advice to or for him in relation to Hydro;

Nor do I have any knowledge of "the matter of and the circumstances ^s surrounding the agreement for the construction of the new head office building" for Hydro - again other than that which has been discussed in the Legislature or appeared in the press.

It is perhaps relevant to point out that I have been a lawyer for 26 years, and during the more than 20 years I have been in public office, I have continued to carry on my profession as a lawyer, with the exception of the two years that I was reeve of North York.

While I carry on a general practice, one of the fields in which I have acquired extensive experience, ~~and~~ substantial knowledge, and some skill, is in relation to land-

August 7/73
10.20-10.25 a.m.
E.M.

H-1716-2

(Mr.Singer)

use matters.

This talent has an appeal to a variety of clients, who have found it of benefit to retain me on such matters.

Their reasonably prompt payment of my ⁸non-too-modest accounts and my continuing relationship with most of them, reflects their satisfaction, I would think, with my services.

I am satisfied that at no time have my solicitor-client relationships ever interfered with my elective duties, nor ^{do so} ~~not~~ do they today.

If it is suggested that my professional relationship with Mr. Moog might have had the effect of stifling the Liberal Party's concern about the facts surrounding the awarding of the Hydro contract, it must be ^{noted} ~~known~~ that the matter was first raised and persisted in by my leader and pursued assiduously by he and several other of my liberal colleagues and that the end result of this criticism and questioning, I would think it is fair to say, is this inquiry.

When the letting of the Hydro contract first became a matter of public discussion, I advised my leader and my colleagues of my solicitor-client relationship with Mr. Moog and indicated to them what it involved. I have never attempted to influence them in regard to this matter or to suggest to them any line of procedure.

I have at no time felt any need to keep from public knowledge the fact of my relationship with Mr. Moog and on several occasions have discussed it, on the record, with members of the press and, in fact, Mr. Chairman, one of the members of the press with whom I did discuss it is here in this room and I confirmed with him again my memory of that incident and he

August 7/73
10.20-10.25 a.m.
E.M.

H-1716-3

(Mr.Singer)

agrees with me.

I indicated to Mr. Shibley that he should express my doubts as to the relevancy of these matters to the committee, and seek their guidance.

He has indicated to me that such a discussion did, in fact, take place last week, and that the committee believes that these matters might have some relevance.

In view of this information, I indicated to Mr. Shibley my desire to appear before the committee, and to give whatever evidence the committee deems proper.

Mr. Chairman: Thank you, Mr. Chairman, for that statement which I know we accept. Mr. Shibley did, as set out in the first paragraph on page 6, that is correct. Thank you, Mr. Shibley.

Mr. Shibley: Mr. Singer, I think it would be helpful to establish something of your history. I understand that you were a graduate of the University of Toronto in 1940, is that correct?

Mr. Singer: That is correct.

Mr. Shibley: And thereafter took one year at Osgoode Hall law school?

Mr. Singer: That's right.

Mr. Shibley: Following which you entered the service in June of 1941 and continued with the Armed Forces for a period of five years, serving your country?

Mr. Singer: Right.

Mr. Shibley: And then following the war, you returned to Osgoode Hall law school where in 1946 and '47 you completed what was the equivalent of the second and third year

H-1716-4

August 7/73
10.20-10.25 a.m.
E.M.

Mr. Singer: Well, it wasn't even the equivalent, it was four very tough sessions of the exact second and third years. They gave us no benefits other than let us go to school all summer.

~~Mr. Shubley, what I really meant to say, and I put it badly, was that you covered in a much shorter time the material that would normally have taken the full two years.~~

(Tape H_1717 follows)

August 7, 1973
10.25 - 10.30 a.m.
M.R.

Mr. Shibley:

What I really meant to say, and I put it badly, was that you covered in a much shorter time the material that would normally have taken the full two years to cover?

Mr. Singer: Yes.

Mr. Shibley: Yes, and you have been practising law since 1947?

Mr. Singer: That's correct.

Mr. Shibley: Now, then, you first entered the political sphere when?

Mr. Singer: In elected office, I was elected in the late fall municipal elections of 1953 for the term commencing 1954 as a councillor in the then township of North York.

Mr. Shibley: And you were on North York council, in the overall, a period of five years?

Mr. Singer: That's correct.

Mr. Shibley: Within which period of time you were a reeve for what period of time?

Mr. Singer: The last two. The first three years as councillor, the last two years as reeve, and those were the years 1957 and 1958.

Mr. Shibley: While you were on council in North York, you did continue to practise law, did you not?

Mr. Singer: During the first three years when I was elected reeve, I ceased the practice of law and concentrated solely on my job of being reeve and a member of the Metropolitan Council and a member of the Metropolitan Executive and a member of the North York Hydro and Library Board and Health Board and so on.

Mr. Shibley: And during the ^{early} years of your practice and continuing throughout the period that you were on council, but not yet reeve of North York, in what sphere of law did you particularly practice?

Mr. Singer: During that period ^{of} time I was associated

August 7, 1973
10.25 - 10.30 a.m.
M.R.

(Mr. Singer)

with my late father who had a general commercial practice and I did pretty well what I was told. I was fairly junior at that point in time, ~~and~~ I did real estate and estate work and company work and so on.

Mr. Shibley: Did you then develop an interest in matters pertaining to municipal affairs, expropriation and land use?

Mr. Singer: Yes, it was an on-going matter and because of my attraction and bent for municipal affairs I began to study them quite closely. Certainly my duties as a member of council involved dealing with these matters from day to day, becoming familiar with the Statutes, concerning myself with what I thought were flaws in the Statutes; building up in my mind the idea that perhaps I might influence the course of these Statutes in future days and that sort of thing.

Expropriation laws interested me too because I've always been concerned about the right of government or a body to take property away and the rights of people who are losing their ~~land~~ property.

Mr. Shibley: And of course it was essential, certainly while you were only a councillor, to supplement your income by continuing the practice of law.

Mr. Singer: It was indeed.

Mr. Shibley: And the ~~kind~~ ^{fields} of expertise that we are talking about would be a natural incidence of your being both a practising lawyer and a member of a municipal council?

Mr. Singer: I would think so. I may add at that point that during those first three years, I scrupulously stayed away from any ~~any~~ property matter that existed in the township of North York.

August 7, 1973
10:25 - 10:30 a.m.
M.R.

Mr. Shibley: But you did develop a very in-depth understanding of the problems confronting people who were attempting to develop and use land?

Mr. Singer: And I saw them every day. North York was in the process of very fantastic development. We were being pitted every day against some of the ablest developers and certainly some of the most knowledgeable lawyers. My joint responsibility with my colleagues at that time as a municipal councillor certainly led me to understand very quickly details, angles, approaches, manoeuvres which could be and were made from time to time by a variety of people. As a matter of fact, I think I had something substantial to do with the developing of what is now, and it's been refined, but what is now the standard sub-division agreement in Ontario. We in North York learned the hard way and we kept on adding clauses and becoming more and more particular because we saw what was going on. We knew when we sat around a table and said ~~and~~ "you'll do so and so," and when somebody ~~and~~ did ~~it~~ it some other way, next time we had to write the agreement more carefully.

Mr. Shibley: And on the other side, I gather you were also confronted with the representation of ratepayers' groups and came to have some understanding of their objections and ambitions?

Mr. Singer: ~~Representative~~ Constantly.

Mr. Shibley: All right. Now, then, just carrying forward: Following your five years on council, ~~with the~~

August 7, 1973
10:30 - 10:35 am
JLP

(Mr. Shibley)

~~since just saying so and following your line gave an account~~
with North York, you sought election ^{to the} provincial House.

Mr. Singer: I didn't run again for reeve and there was a provincial election held sometime in 1959; I sought and obtained the Liberal nomination at that time and was elected in that provincial general election of 1959.

Mr. Shibley: And you have been an elected member of the Ontario Legislature—

Mr. Singer: Ever since, that's right.

Mr. Shibley:—ever since, that's from 1959 to date.

Mr. Singer: Right.

Mr. Shibley: And in that period of time you've run successfully in four elections?

Mr. Singer: That's right.

Mr. Shibley: All right. I want to take you back—first of all, I understand that, with respect to Mr. Moog, there have been in all four occasions upon which you have been retained by him, either alone or in conjunction with others?

Mr. Singer: Four major ones, one very minor one which I have mentioned in my memorandum.

Mr. Shibley: Yes. And the first occasion of a retainer had to do with land on Bayview Avenue to the east of the Sunnydene—

Mr. Singer: To the south.

Mr. Shibley: I'm sorry, south of the Sunnydene Subdivision—is that correct?

Mr. Singer: That's correct.

Mr. Shibley: That was back in ~~March~~ March 20, 1961?

Mr. Singer: That's when that commenced; ^{perhaps} ~~maybe~~ to fix that property a little more definitely in the minds of some of the committee members, that property is on the west side of Bayview directly across the street from the CNIB.

Mr. Shibley: Yes. And on that occasion your retainer was on behalf of a group of residents who were opposing an application for rezoning made by Cadillac Developments. Is that right?

MR. Singer: That is correct.

Mr. Shibley: And among the ratepayers, who were resident in the Sunnyside area, was Mr. Moog?

Mr. Singer: That's correct.

Mr. Shibley: And he formed part of the group that retained you to oppose the application by Cadillac. Is that right?

Mr. Singer: Right.

Mr. Shibley: And on the other side of that case, who was representing Cadillac?

Mr. Singer: A young lawyer whom I had been to school with named Edwin A. Goodman.

Mr. Shibley: Right. ~~Mr. Singer~~ I take it that the, I'll lead you a little bit in this area, Mr. Singer, I take it that the development by Cadillac included the erection of a high-rise apartment building which was the subject of very serious objections.

Mr. Singer: That was what they wanted to do, yes.

Mr. Shibley: Right. And that you were brought into the picture by H. Stanley Honsberger, QC, a lawyer who had been attempting to advise these ratepayers but sought out your expert assistance in the field?

Mr. Singer: Yes.

Mr. Shibley: So that we have the situation on the first retainer of your being brought in by another lawyer as special counsel for this project?

Mr. Singer: Right.

Mr. Shibley: All right. Just moving through that, I take it that there were a number of attendances in connection with that first retainer, and, prior to the attendances, an examination by you of the individual titles of land involved?

Mr. Singer: Yes.

Mr. Shibley: The circumstances affecting the CNIB, they had a particular concern I understand that.

Mr. Singer: They have a walkway that runs across Bayview from the east side to the west side, which is constructed really *only* with the idea in mind that the blind people who use their facilities would be able to cross the road without being interfered with by

(Mr. Singer)

traffic. And they were concerned at that point, well, in a later trial, that you are undoubtedly going to refer to ~~the~~ ^{whether} the effect ~~of~~ any major development which might crowd that walkway and interfere with the blind people for whom the facility had been built.

Mr. Shibley: Right. Now you appeared before North York Council on behalf of the ^travelers and were successful in having the application by Cadillac refused?

Mr. Singer: Yes, that's a very, very, brief summary of a long history, and a very lengthy file and many, many appearances.

Mr. Shibley: Right. But they didn't give up, they started a different application, is that correct?

Mr. Singer: That's right.

Mr. Shibley: to the North York planning board, and you again resisted that successfully. Is that correct?

Mr. Singer: That's right.

~~Mr. Shibley: And then Mrs. Goodman, on behalf of Cadillac, appealed the North York decision to the municipal board, and~~

(Tape H-1719 follows)

August 7, 1973
10.35 - 10.40 a.m.
M.R.

~~Mr. Singer: That's right.~~
~~Mr. Shibley: And in addition, while that hearing~~
Mr. Shibley: And then Mr. Goodman, on behalf of Cadillac, appealed the North York decisions to the Municipal Board and there was a hearing on October 27, 1961. Is that correct?

Mr. Singer: That's right.

Mr. Shibley: And in addition, while that hearing was pending, there was a case stated for the Court of Appeal respecting evidence that had come before the OMB and that appeal was heard on December 11, 1961. Is that correct?

Mr. Singer: That involved the evidence or the refusal to answer of a witness in relation to certain information he had, which he felt was none of Mr. Goodman's business and Mr. Goodman then had a case stated for the Court of Appeal which eventually --

Mr. Shibley: ^{Now were} ~~you~~ you involved in all of those proceedings?

Mr. Singer: I was there. It was a matter of importance to the presentation of our case.

Mr. Shibley: Then the thing came back before the municipal board. Now this is the second effort by Cadillac respecting that. On February 12, adjourned to May 14, on which occasion there was a three-day hearing before the municipal board.

Mr. Singer: That's correct.

Mr. Shibley: May 14, May 15, and May 16, and again another three days on October 1, October 2 and October 3.

Mr. Singer: That's correct.

Mr. Shibley: And you participated in the ~~whole~~ whole of the six days of that hearing?

Mr. Singer: I did.

August 7, 1973
10.35 - 10.40 a.m.
M.R.

Mr. Shibley: And, of course, for every day of hearing, there would be at least an equivalent amount of preparation?

Mr. Singer: At least.

Mr. Shibley: Now, then, I understand that written arguments were requested and you prepared and submitted same?

Mr. Singer: Yes.

Mr. Shibley: And

Mr. Singer: My written argument at that point I think, runs some 90 pages.

Mr. Shibley: And finally on May 30, 1963, the municipal board dismissed Cadillac's appeal and gave a 13 page judgement?

Mr. Singer: That's correct.

Mr. Shibley: So then for the second round, so to speak, you were successful in defeating the efforts of Cadillac to rezone that parcel. Is that right?

Mr. Singer: That's right.

Mr. Shibley: And throughout that period of time Mr. Moog would be in communication with you as one of the people affected?

Mr. Singer: That's right.

Mr. Shibley: Is it fair to say that he was more or less a spokesman or a very prominent member of the ratepayer

Mr. Singer: I think as the matter unfolded he reasonably quickly emerged as the leading spokesman for the group.

Mr. Shibley: Your fees for the attendances that I've described in opposition to Cadillac on the first and second occasions of their efforts amounted to how much?

Mr. Singer: \$2,500.

Mr. Shibley: And would you like to comment on the amount of that?

August 7, 1973
10.35 - 10.40 a.m.
M.R.

Mr. Singer: Yes. When we started on this, they wanted some idea ~~reference~~ from me as to what my fees might be. And in retrospect I would say very foolishly I told them about \$1,500, because I had no idea ~~what~~ the length or involvement of these proceedings.

When the proceedings were finally concluded I pointed out to them that there was much more work than anyone ~~and~~ could have imagined and suggested the sum of \$2,500, which they agreed to pay, which I still think was quite low but in view of my earlier suggestion and in view of the fact that I wasn't dealing with one person—every time there had to be a discussion about fees there had to be a meeting between six or eight ratepayers, each of whom were going to be assessed and pay a portion of it.

In view of the circumstances at that point in time, \$2,500 wasn't a bad fee.

Mr. Shibley: Now that covers the first retainer and I want to move on to the second retainer. I understand that on June 2, 1967 you were retained by Mr. Moog in connection with proposals he had for the development of the ^{self} same lands?

Mr. Singer: That's correct, sir.

Mr. Shibley: The lands south of the Sunnydene subdivision. *Is that correct?*

Mr. Singer: Right.

Mr. Shibley: Now, here in a sense, you were cast in a reverse role to that you had had on the first retainer, where you were acting for he and other ratepayers in opposition to a developer, he now sought your assistance as a developer, to get approval for plans he had for that parcel? Is that correct?

Mr. Singer: That's right. Which point didn't escape the attention of the people who now were opposing us.

Mr. Shibley: Yes. All right. Now, then, I take it that one of Mr. Moog's companies had acquired these lands at some time?

August 7, 1973
10.35 - 10.40 a.m.
M.R.

Mr. Singer: That's correct.

Mr. Shibley: And that this was likely -- do you know when that was?

Mr. Singer: Somewhere between 1963 and 1967.

Mr. Shibley: All right. You don't know the time?

Mr. Singer: I don't know, nor did I act in that acquisition.

Mr. Shibley: All right. And what he wanted was for you to assist him to obtain a rezoning to erect on that property a smaller apartment ^{building} than that which the Cadillac people had proposed.

Mr. Singer: Smaller and lower.

~~Mr. Shibley: Smaller and lower, right. And in addition, on the front portion of the~~

(Mr. Singer)

~~Mr. Shibley:~~ ^{Smaller} and Lower, right. And in addition, on the front portion to erect a chiropractor's college, is that correct?

Mr. Singer: That is correct.

Mr. Shibley: And that these ambitions of Mr. Moog involved a submission of rezoning application to the Municipality of North York. Is that right?

Mr. Singer: Right.

Mr. Shibley: Now that was a municipality, obviously, with which you were familiar as to its procedures, is that correct?

Mr. Singer: That's right.

Mr. Shibley: And also as to the personalities of the individuals with whom you would have to deal in the various departments.

Mr. Singer: That is correct.

Mr. Shibley: And you were also familiar with the ratepayers' group that you would have to, so to speak, compromise with if you had any hopes of getting approval.

Mr. Singer: That is right.

Mr. Shibley: So that with this background of experience, Mr. Moog ~~had to~~ to retain you on this second occasion on an individual basis.

Mr. Singer: I would think that is what went through his mind, yes.

Mr. Shibley: Yes. Now that application for rezoning to North York was done on June 7, 1967?

Mr. Singer: ~~Five~~ Five days after I had been retained.

Mr. Shibley: Yes. I take it that this is classic with Mr. Moog, that he retains you one day respecting a matter that is coming up fast, so to speak, ~~and~~.

Mr. Singer: Throughout all my dealings with Mr. Moog, there has always been a great sense of urgency. He usually comes in fairly late to the ^{game} and wants immediate action and this is

Aug. 7/73
10:40-10:45 am
PLG

(Mr. Singer)

his style of business.

Mr. Shibley: All right. And then you ran into much the same problems as when you had opposed ^{the} Cadillac application. North York requested details, the CNIB expressed ~~and~~ their reservations, you had meetings with North York planning Board and many detailed and ~~and~~ specific explanations were required of you on behalf of your client. Is that right?

Mr. Singer: That is ~~was~~ correct.

Mr. Shibley: And then again the matter came on for public hearing before North York planning ~~board~~ board on August 30, 1967. It was adjourned so that meetings could take place at which objecting ~~and~~ ratepayers could make representation. Is that right?

Mr. Singer: That is correct.

Mr. Shibley: Here again, Mr. Singer, were you confronted by experienced counsel in opposition acting for the ratepayers?

Mr. Singer: Indeed I was. The firm of Arnup Foulds as it was then known were acting on behalf of the ratepayers, and certainly in my opinion they are a most knowledgeable and capable firm and represented their clients very well and were formidable opponents.

Mr. Shibley: Yes, I couldn't agree with you more. They are probably the most outstanding firm in the field of municipal affairs, ~~and~~ they were ~~also~~ pitted against you, and I am stating it that Mr. Moog felt that he needed again someone of your expertise to match competence.

Mr. Singer: I would think that is fair.

Mr. Shibley: Now then, you carried on on this second retainer with meetings with the planning board ^{and} ratepayers, right through to November of 1967.

Mr. Singer: That is correct.

Mr. Shibley: And a further hearing before the North York planning board on November 29, 1967, which was a meeting that -- of what kind?

Mr. Singer: It was a hearing before the planning board where they dealt with the package we then had before them and my recollection is that at that point they did approve basically the submission we then had placed before them. We then had to go from planning board to ~~from~~ council.

Mr. Shibley: Yes, now at this juncture had you abandoned the apartment building portion of the hearings?

Mr. Singer: Oh no.

Mr. Shibley: Not yet.

Mr. Singer: The apartment building was there and...

Mr. Shibley: All right. The North York council then dealt with the matter on February 13, 1968. Is that correct?

Mr. Singer: That is correct, Sir.

Mr. Shibley: And notices were sent out that the matter was being referred to the Municipal Board because you were advised that there were several objections...

Mr. Singer: Well, the procedure there, Mr. Shibley, is that after a bylaw has been approved by the council, the municipality sends out notices saying that the bylaw will be submitted to the Municipal Board which will have a public hearing ~~whether~~ if there are objections. If there are not, then it is more or less rubber-stamped by the Municipal Board. If there are objections, then a hearing before the Municipal Board automatically follows.

Mr. Shibley: In this case there was a hearing before the Municipal Board.

Mr. Singer: There were objections and there was a hearing.

Mr. Shibley: ~~There was a hearing before the Municipal Board.~~
(On April 23, 1968.

Mr. Singer: That is when it started I think, yes.

Mr. Shibley: And on that occasion there was an adjournment and it came on again on May 10, 11, 12 and 13 of 1968.

Mr. Singer: That's right, Sir.

Mr. Shibley: So that the Board had a four-day hearing in respect of this application.

August 7, 1973
10:45 - 10:50 a.m.
B.G.

~~Mr. Shibley:~~

~~21, 22 and 23 of 1968~~

~~Mr. Singer: That's right.~~

~~Mr. Shibley: So that the Board had a four-day hearing~~

~~in respect of this application.~~

Mr. Singer: That's right.

Mr. Shibley: And you were present and represented

Mr. Moog's company through out?

Singer:

Mr. Shibley: That's right.

Mr. Shibley: And I take it that for every day's

attendance there were many days of preparation.

Mr. Singer: That's correct, sir.

Mr. Shibley: Now then, I understand the Board reserved its decision and on May 28, 1968 announced it ^{that} refused to approve of the development application made by you on Mr. Moog's behalf.

Mr. Singer: That's correct, sir.

Mr. Shibley: Is that correct? So you now were in a position where on your second retainer you had a negative result?

Mr. Singer: That's right. That's right.

Mr. Shibley: Then I take it you decided with Mr. Moog that a new application be submitted to North York, and this application being one deleting the apartment building and asking only for a rezoning to allow the ^{the} erection of a chiropractors' college?

Mr. Singer: That's right.

Mr. Shibley: Is that right?

Mr. Singer: That's right. The reasoning behind that was that the substantial thrust of the ratepayers' objection was to the apartment building.

Mr. Shibley: Yes.

Mr. Singer: There were objections, a little vague in nature, to the chiropractors' college, such things as

August 7, 1973
10:45 - 10:50 a.m.
B.G.

(Mr. Singer)

the fact that they might have electronic ~~machinery~~ machinery that could interfere with neighbouring television sets, and that ~~any~~ sort of thing, ~~the~~ which didn't amount to much, ~~the~~ but their main objection was directed to the apartment building, and most of the witnesses in opposition had indicated that they had no real objection to the chiropractors' college. It was going to be low-lying in ~~any~~ nature; it wasn't going to interfere with the horizon view; it wasn't going to overawe the residents on the other side of this little ravine between the Sunnyside and the subject property.

Mr. Shibley: Now then on June 4th, this new application, which now reduced itself to an application for approval of the construction of the chiropractors' college -

Mr. Singer: That's right.

Mr. Shibley: - came on before North York Planning Board.

§ Is that correct?

Mr. Singer: That's right, sir.

Mr. Shibley: And subsequently before North York Council.

Mr. Singer: Right.

Mr. Shibley: You appeared on both occasions.

Mr. Singer: I did.

Mr. Shibley: And this new application was approved.

Is that right?

Mr. Singer: Right.

Mr. Shibley: Now then the matter now then went ~~to~~ before the Municipal Board on June 14th, 1968 -

Mr. Singer: Yes.

Mr. Shibley: - because ^{the board} had on the original application heard evidence, they gave you a quick hearing?

Mr. Singer: Yes.

Mr. Shibley: And the Board after hearing from other solicitors, approved the new application and the by-laws in relation thereto.

August 7, 1973
10:45 - 10:50 a.m.
B.G.

Mr. Singer: That's correct, sir.

Mr. Shibley: So that you had now reversed what was a negative result to a positive result to the extent of getting the chiropractors' college approved for construction on that site. Is that correct?

Mr. Singer: That's right. ^{And} The chiropractors' college has since been built and is now being used.

Mr. Shibley: And now then did Mr. Moog tell you that the plans he had for constructing the chiropractors' college on that site were important to him in that it was part of arrangements he was undertaking respecting the construction of the OISE building?

Mr. Finlayson: Mr. Chairman, I have something to say here. I received a call from Mr. Singer on Thursday night and he advised me that Mr. Shibley wanted to come and look at files that he had of Mr. Moog's, and he told me that some question had arisen in the mind of Mr. Shibley at least, as to payments which Mr. Singer had received from Mr. Moog and Moog's ~~companies~~ companies. ~~and~~ I said, ~~well~~, that "I have no objection to Mr. Moog waiving privilege with respect to this matter so that you can appear in front of the committee and ~~also~~ clear up whether the payments that you received from Mr. Moog and his companies were political donations or whether they were for legal services rendered". But I made it quite clear to Mr. Singer that I didn't propose to have Mr. Shibley air the details of everything which was in these various files; and I certainly ^{do} object very strenuously to this kind of cross-examination of Mr. ~~Moog~~ Moog's solicitor with respect to matters that he handled, and I made it quite clear to Mr. Singer that I didn't propose to permit this kind of detailed cross-examination.

I am particularly concerned as we move along ~~at~~ later on, because the matter involving the Oriole Park Ratepayers' Association is current, and ~~my~~ my firm happens to be counsel for the Oriole.

August 7/73
10.50-10.55 a.m.
E.M.

(Mr. Finlayson)

~~associated with the Oriole Park Ratepayers' Association~~
the Oriole Park Ratepayers' Association, which is an added embarrassment, and my friend Mr. Genest is a director.

Mr. Genest: No - - -

Mr. Finlayson: Aren't you?

Mr. Renwick: He resigned over the weekend.

Mr. Finlayson: I personally appeared for the Oriole Park Ratepayers' Association in an application before the Ontario Municipal Board involving the property on Davisville. It is not Mr. Moog's property but it was another developer and that matter is still very much current. As I say, I don't know what this is all about, I don't know why Mr. Singer has been brought here anyhow, but I certainly don't propose by this back-handed method to have a complete history of Mr. Moog's dealings with ratepayers' organizations. What does it have to do with this?

Mr. Chairman: Mr. Finlayson, I think it has some relevancy all right. Mr. Singer, have you any comments to make?

Mr. Singer: Yes. I have spoken to Mr. Finlayson once during these whole proceedings, that was Thursday evening, as Mr. Finlayson said. I did that at Mr. Moog's suggestion because of my discussions with Mr. Shibley. At that particular point in time, ~~Mr.~~ it had been indicated to me Mr. Shibley wanted to come to my office on Friday morning and the question was about to arise as to the extent to which my files would be made available to him. A suggestion which had been worked out, I don't know whether it originally came from me or not, was that he could look at all of my files ~~presented~~ and

August 7/73
10.50-10.55 a.m.
E.M.

H-1722-2

(Mr. Singer)

extract from them what he thought was relevant, provided he would undertake, in writing or not, it doesn't really matter, that he would undertake that the files hadn't lost their privilege.

Mr. Shibley told me at that time he was not prepared to give any such undertaking. Subsequently, as we talked about it further, a suggestion was put to me that it might be helpful if I would prepare my own summary of what was in the files and make available a copy of that summary to Mr. Shibley. I said that seemed to have some sense to it, however, I would have to get instruction. On Sunday afternoon, by that time I had a draft or a second draft of this summary, I attended on Mr. Moog, discussed that with him ---

Mr. Shibley: With Mr. Moog?

Mr. Singer: With Mr. Moog. Mr. Moog advised me he had no objection to that.

Mr. Shibley: And, Mr. Singer, ---

Mr. Singer: I don't take my instructions from Mr. Finlayson, I take them from Mr. Moog.

Mr. Shibley: And, Mr. Singer, I have yet to ask you a single question that isn't part of the outline of facts, ---

Mr. Singer: That is correct.

Mr. Shibley: --- that you have reviewed with Mr. Moog and that he has waived privilege ~~respecting~~ respecting, is that correct?

Mr. Singer: That is correct.

Mr. Shibley: And in respect of the files, as you know, I declined to look at those files under any kind of restraint

August 7/73
10.50-10.55 a.m.
E.M.

H-1722-3

(Mr.Shibley)

that was suggested to me.

Mr. Singer: That is correct.

Mr.Shibley: So that I have not in fact looked at the files?

Mr. Singer: That is correct, sir.

Mr. Shibley: And in addition, Mr. Singer, on the occasion of my discussions with you on July 27th in the office of Mr. Nixon, the very first thing I said to you was that everything was on the record?

Mr.Singer: That is correct.

Mr. Shibley: And I also invited you to seek a waiver of privilege from Mr. Moog?

Mr.Singer: That's right.

Mr. Shibley: And you did in fact seek such a waiver on that day and obtain it ?

Mr. Singer: That's right. I may say that as the discussion progressed from the 27th to the Friday a week later, that I did indicate to you ^{when} ~~and~~ you attended at my office that second Friday, that I had now had ~~had~~ more time to go through my file dockets in detail and that ~~and~~ there were a number of items in them that I did not choose to reveal, and that they related to such things as my assessment of some of the people who were ^{out} antagonists, my views as to the validity of certain techniques, resolutions, by-laws and so on, which I did not choose to make public, my sources of information about particular facets ---

Mr. Shibley: And I told you I wasn't the least bit interested in those particulars.

Mr. Singer: That is exactly right. This memorandum contains none of that information.

1007-1241

(Mr. Singer)

~~Memorandum containing none of that information~~

Mr. Finlayson: And now we've established that, what are we going through this exercise for?

Mr. Chairman: Mr. Finlayson, that's a matter of the committee. The committee looked at some of this on Thursday and that's why we're going through it. If you would proceed, Mr. Shibley, please.

Mr. Genest:
~~Chairman~~ Mr. Chairman, on behalf of Hydro, I am quite flabbergasted by ~~the direction~~ the direction this committee is taking, and I know you've made it quite clear that this is the decision of the committee. But I ask you at some stage in this evidence to make a statement as to the relevancy of the evidence. You may not feel it appropriate to do so now, but I hope that at some stage this committee will go on record as to why someone like Mr. Singer is hawled up here.

Mr. Chairman: Right. You're using words, Mr. ~~Genest~~ Genest, you used the words "hawled up", that's not the case at all. As I say, the committee looked at the relevancy of this evidence, we decided it was relevant, and I think the relevancy will come out later on. If you would proceed please, Mr. Shibley.

Mr. Shibley: I just want to make it perfectly clear that Mr. Singer was not hawled up; in fact he's been a ~~very~~ a true volunteer throughout in terms of providing information, and his attendance here today.

Now then, if I may go on with you Mr. Singer. ~~I was asking you whether or not the question of~~ you had dealt with the second retainer, my next question was to be what was your charge to Mr. Moog in respect of the rezoning for the chiropractic college?

Mr. Singer: \$12,000.

Mr. Shibley: Yes. And you've already recited ^{the} various and numerous attendances in connection with that application. And the matter was of importance not only because it permitted him to develop the chiropractic college, but also because it was inter-related with his efforts respecting the OISE building.

August 7, 1973
10:55 - 11:00 am
JLP

Mr. Singer: Well, I have no direct knowledge of that; I made no reference to that in my memorandum. You may be right; I don't choose to comment on that aspect. What I did say, and I repeat, is that Mr. Moog indicated to me that he had very substantial commitments to the chiropractors ~~which had ramifications in other dealings in which I was not involved.~~ ~~which had ramifications in other dealings in which I was not involved.~~ The chiropractors to get their building erected, which had ramifications in other dealings in which I was not involved.

Mr. Shibley: All right. Can you assist us simply to this extent, This was the land and building which formed part of the exchange arrangements?

Mr. Singer: So I understood, but I have no knowledge of that. I didn't handle any of that.

Mr. Shibley: All right. Then, I'd like to go on, and you have mentioned a fifth retainer which was quite incidental and perhaps we should touch on it. In August of that year, there were some discussions respecting finalization of a road acquisition and payment to the municipality for the deed.

Mr. Singer: That's the same file.

Mr. Shibley: That's the same file. And that completed all of the work in connection with that file, except for an appearance on February 18, 1969, before the taxing officer, to tax the bill of Arnup Foulds.

Mr. Singer: That's right.

Mr. Shibley: I want to go on to what amounts to your - this is the incidental one - there was a third one, I'll just get it out of the way. On June 23, 1968, you had a consultation with Mr. Moog, and also on June 5,

Mr. Singer: July 5th.

Mr. Moog: July 5th of that year. And that related to municipal ~~land~~ land which was not available, and that matter went nowhere.

Singer:
MR. ~~Shibley~~ That's right.

Mr. Shibley: So then we go to what is really the third real retainer if I may call it that. Before I get to that, to complete the chronology, you did indicate that Mr. Moog made a

August 7, 1973
10:55 - 11:00 am
JLP

(Mr. Shibley)

~~Mr. Singer:~~ donation to your re-election campaign fund in October, 1967.

Mr. Singer: Yes he did, Sir, in the amount of \$150.

Mr. Shibley: Yes. And similarly in October, 1971, Mr.

Moog donated ~~\$50~~

Mr. Singer: \$50, to my campaign fund. That's right.

Those were all of the campaign donations that I've ever received from him.

Mr. Shibley: From him.

Mr. Singer: From him, or his company.

Mr. Shibley: I want now to deal with what amount to interrelated retainers three and four. You have two ~~business-related~~ files, bearing numbers 1076 and 1076-A. Is that correct?

Mr. Singer: That's correct Sir. I may say, at that point, that my system of indexing in my office is to assign a separate number to each new matter. However, when a matter has several aspects, I will label my files A, B, C, D, or with the key number, and in this case the numbers there from the beginning were 1076 and 1076A showing, the connection between them.

Mr. Shibley: Mr. Singer, at this point in time, I am going to stop sort of leading you through evidence that I thought was relatively innocuous and ask you to make your own answers so to speak.

You had a ~~one~~ meeting with Mr. Moog on the morning of October 23,

Mr. Singer: August.

Mr. Shibley: I'm sorry, August 23, 1972.

Mr. Singer: That's right Sir.

Mr. Shibley: Would you tell me the circumstances of that meeting?

Mr. Singer: Well, as best I can recall, and as I have set out in this memorandum that I HAVE PREPARED, Mr. Moog advised me that he wanted me to act for him in relation to an appeal being taken against certain of his companies - and that is not actually specifically correct; the appeal was being taken in the name of the

August 7, 1973
11.00 - 11.05 a.m.
M.R.

(Mr. Singer_

~~is a block of land~~ TTC; the TTC were the ground land-owners.

Mr. Shibley: This related to property at Yonge and ~~the~~ Eglinton?

Mr. Singer: At Yonge and Eglinton, yes. Mr. Moog and his ~~company~~, and/or his ~~company~~, were the lessees over a long period of time of the air rights above the TTC establishment at the corner of Yonge and Eglinton. So that where I say an ~~appeal~~ appeal was taken against his companies or so on, it was nominally in the name of the TTC. In fact, the TTC did not play any role and the whole of the series of events, undertakings and so on, ~~was~~ ^{was} done on behalf of, by Mr. Moog and at Mr. Moog's behest and expense, or Mr. Moog and his ~~company~~ ^{firm}.

Mr. Shibley: Just so as to make the situation clear to the committee, that is a partel of land consisting ...

Mr. Singer: It's a square block, Mr. Shibley.

Mr. Shibley: It's a full block.

Mr. Singer: It's a full, square block, bounded on the north by Eglinton Avenue; on the east by Yonge Street; on the west by Duplex and on the south by Berwick Avenue. So it's the southwest corner of Yonge and Eglinton, that whole ~~squagre~~ square block.

Mr. Shibley: Which is a principal intersection of this ...

Mr. Singer: Which is one of the main intersections in Metropolitan Toronto. No question about that.

Mr. Shibley: Right. And on that site is located ~~the~~ the Canada Square building on the very corner of Yonge and Eglinton. Is that correct?

Mr. Singer: That's right.

Mr. Shibley: And as at this time a parking garage to the west of that building and what is now called the Transamerica building were either under construction or had just been completed?

August 7, 1973
11:00 - 11:05 a.m.
M.R.

Mr. Singer: Just been completed, is my

recollection, yes.

Mr. Shibley: And so ...

Mr. Singer: The parking garage had been completed

in connection with, I believe, the Canada Square building, and the parking garage has an entrance on Berwick which is the southerly street and to the west.

Mr. Shibley: So we can think of that as, say,

Parcel Two, where the parking garage is? Canada Square building being parcel one - it's all one parcel at the moment?

Mr. Singer: Yes.

Mr. Shibley: But I just want to ~~ask~~ orientate

the committee: Canada Square building would be, let's say, the first part of the overall parcel?

Mr. Singer: That's right.

Mr. Shibley: The parking building to the west of it

would be the second part?

Mr. Singer: That's right.

Mr. Shibley: Then immediately ...

Mr. Singer: And there's a heating building, sort of, middle in the ~~middle~~ joint heating plant.

Mr. Shibley: And then to the south of the Canada Square building is the ~~third~~ third part on which ~~Transamerica~~ Transamerica building is built?

Mr. Singer: That's right.

Mr. Shibley: And then on the southwest corner of the city block is a vacant area, yet to be developed?

Mr. Singer: Well, much more than the southwest corner. To the west and from the rear, or from the westerly limit of the two existing buildings, all the way to Duplex and running from Eglinton down to Berwick is undeveloped. So, ~~the~~ roughly half the square block is undeveloped.

On Berwick there are some residential houses and so on, but half the block is undeveloped.

Aug. 7/73
1011:05-11:10 am
PLG~~Mr. Singer: The four parcels~~

Mr. Shibley: The four parcels accommodating the Canada Square ~~at~~ building, the parking garage, the Transamerica building and the vacant part.

Mr. Singer: And the vacant portion. Because shortly before that The Planning Act had been amended and subdivision control had been applied to all of the land which was not on plan ~~and~~ of ~~some~~ subdivision in the province of Ontario. This land is not on a plan of subdivision and it therefore then became necessary, which it hadn't been when these enterprises were started by Mr. Moog, to obtain committee of adjustment approval for the division of these properties. And since apparently it was Mr. Moog's ~~is~~ set up or method of procedure that these buildings would be owned by ~~the~~ different companies, and since there had to be mortgage arrangements, separate mortgage arrangements, the problem then became the severance, through committee of adjustment approval, of the second building, the parking garage and heating plant, and of the undeveloped portion from the whole. The immediate task being the severance of the second building, because I was instructed that mortgage arrangements had been made when the second building was commenced, that the mortgage monies were to be advanced when the mortgagees could be given clear title and wouldn't be advanced until that point in time. ~~and~~ The mortgagees, when Moog approached me, were not able to be given clear title because that land had not at that point in time been severed. The mortgagees therefore wouldn't advance their money until they had clear title. Now that sounds complicated.

Mr. Shibley: I hope the committee understands that in that what we have here is the Transamerica building, respecting which ~~a~~ mortgage arrangements had been made but which could not be completed until the consent for division of that parcel from the overall block was approved.

Mr. Singer: That's right sir.

Mr. Shibley: And that this was the item of prime concern at that time to Mr. Moog and for which you were being retained.

Mr. Singer: That's right.

Mr. Shibley: He was, however, simultaneously applying, not ~~at~~ only for the division of the Transamerica parcel, but for the cutting up of the block into four parcels.

Mr. Singer: Into four parcels, the first parcel being the Canada Square building, the second parcel being the Transamerica building, the third parcel being the parking garage, and the heating plant, and the fourth parcel being the half-block undeveloped ~~area~~ portion.

Mr. Shibley: Now this division of land ~~is~~ into four parts met with very serious opposition by the ratepayers.

Mr. Singer: Very serious opposition by the ratepayers.

Mr. Shibley: And the opposition really centred on what might be the use of the fourth and vacant parcel.

Mr. Singer: Yes, well that was obvious from the very beginning. I don't think that the ratepayers were awfully concerned as to the title of two separate buildings. The buildings were there on ~~the~~ the ground, they had been legally built, so that could be no concern to them. What they were concerned about was the severance of the undeveloped lot, which if it had been severed at that point in time, would have allowed an immediate application for a building permit within the terms of the official plan and the zoning bylaw. The ratepayers were concerned about what might be erected on that parcel of land and at that point in time they had a fear that it was going to be an 80-story commercial type building.

Mr. Shibley: Was there some reason?

Mr. Singer: There was some reason for that fear because at one stage in time Mr. Moog's artists or staff people had produced a sketch or projection of what might eventually go on there, and that sketch did show an 80-story building.

Mr. Shibley: Now the point is, however, that although you were dealing with a land division problem, the division of the land really controlled the use of the fourth parcel.

Mr. Singer: That's right. That becomes a little better understandable when you become aware of what the ~~rate~~ ratepayers

H 1725-3

Aug. 7/73
11:05-11:10 am
PLG

(Mr. Singer)

were saying. ~~Then~~ They were saying that these divisions should not be granted, that the land should only be developed by a plan of subdivisions and that was their argument for the committee of adjustment and at subsequent forums, which perhaps we will come to later. The ~~next~~ significance of that would be that if the decision was eventually there should be a plan of subdivision for all of the land, then we were into a different ball game.

Mr. Shibley: They were looking for a premise upon which to place restraints on the use of the vacant parts.

Mr. Singer: Yes. And public negotiations and so on in relation to it, because if they had achieved at that time ~~what~~ what they wanted, and it had ordered that there be a plan of subdivisions, then we were into an entirely different approach,

Tape H 1726 follows

August 7, 1973
11.10 - 11.15 a.m.
M.R.

(Mr. Singer)

~~the City of Cambridge of which they~~
~~the City of Cambridge, different aspects, drawings have~~
to be prepared ...

Mr. Shibley: Conversely, if ...

Mr. Singer: Public meetings, appearances, on and
on and on. Petitions.

Mr. Shibley: Conversely, if you could get land
division, the then existing by-laws would have permitted
development of the land for commercial use.

Mr. Singer: That's right. And that's what they
wanted to stop.

Mr. Shibley: All right. Now, there had been a
land division approved by a committee of adjustments as at
August 23, ~~1972~~

Mr. Singer: That's right. When the matter was
brought to me there had been the preliminary decision of the
committee of adjustments approving these four applications.

Mr. Shibley: And an appeal launched to the
Municipal Board which appeal was to have been heard on
September 22nd, 1972?

Mr. Singer: That's right.

Mr. Shibley: Now, then, would you please then
tell us the response that you gave to Mr. Moog on August 23,
1972, as to your being retained respecting that Municipal
Board hearing?

Mr. Singer: I told Mr. Moog that I had made
definite plans which I was not prepared to change which would
take me out of the city from the 20th of September for a
period of a month; that if that hearing had to go on on the
22nd of September, I would not be available but that I was
prepared to explore with the Municipal Board the possibility
of moving the date back from the 22nd to a date earlier than
the 20th.

August 7, 1973
11.10 - 11.15 a.m.
M.R.

(Mr. Singer)

And on that basis I ~~was~~ began to make inquiries to the Municipal Board.

Mr. Shibley: You were in fact able to move the hearing ...

Mr. Singer: Move it back to the 18th of September.

Mr. Shibley: ...and accept the retainer.

Mr. Singer: That's correct, sir.

Mr. Shibley: Now, with respect to this - again you were confronted with experienced and competent counsel? There was a strong ...

Mr. Singer: There was a plethora of competent counsel; competent ratepayers - the area in which we are involved is a pretty good area in the city of Toronto, certainly upper-middle-class at least, if you can classify it. And in that area live many lawyers, architects, engineers, planners, they had their own built-in group of experts, including one, Roy McMurtry, who was quite active in opposition to this. He was president at that point of time of the Oriole Park ratepayers who ~~were~~ are very strong protagonists - antagonists.

Mr. Shibley: All right. Now, on August 23, in addition to discussing the retainer for the Municipal Board hearing, was the matter of a continuing retainer raised by either you or Mr. Moog?

Mr. Singer: Yes, it was, sir. My recollection *of that and* in the way I've ~~stated~~ ^{set} out ~~my~~ ^{the} memorandum which I - to the best of my knowledge, I'm satisfied ~~it's~~ ^{it} correct, there was a general discussion as to a continuing retainer in relation to the use of the undeveloped land which would involve lengthy discussions with the ratepayers, ~~for~~ ^{the} Canada Square architects and other advisers so that hopefully a plan for the use of this land could be arrived at which would be acceptable to all concerned.

August 7, 1973
11.10 - 11.15 a.m.
M.R.

Mr. Shibley: Just before you go on: Do I take it from what you've said that Mr. Moog raised the question of a retainer with you.

Mr. Singer: Yes, he did, sir.

Mr. Shibley: And he raised it with you on the occasion of his meeting on August 23?

Mr. Singer: August 23, that's ~~that~~ *correct*

Mr. Shibley: This was a retainer of the nature where payment is made in advance and ...

Mr. Singer: The detail of it wasn't spelled out at that point.

Mr. Shibley: It wasn't made firm then.

Mr. Singer: It wasn't made firm but it was raised.

Mr. Shibley: It was raised then all right.
And just ...

Mr. Singer: And I told him at that time that it was a matter I might be interested in discussing further at a later date. In the meantime, the immediate objective was to see how we would fare with these land division applications. And immediately to try and see if we could re-arrange that OMB date from the 22nd backwards.

If I wasn't able to re-arrange that, then the whole thing was abortive insofar as my role was concerned.

Mr. Shibley: So that, just to make the picture clear, on August 23 two things occurred: He retained you subject to your being available, & if you could change ~~that~~

Aug. 7/73
11:15-11:20 am
PLG

(Mr. Shibley)

~~... two things ...~~
~~... applied ...~~

Mr. Singer: Yes.

Mr. Shibley: He ~~was~~ retained you ~~was~~ respecting the OMB application for land division and he raised for the first time the suggestion of a retainer, that we will talk about later as to its terms and when it was made firm. Is that correct?

Mr. Singer: Yes.

Mr. Shibley: Now then, here again in respect of the land division, I take it Mr. Moog, remembering your earlier efforts on his behalf and in respect of the ratepayers' opposition, (retainer one), the chiropractors' college (retainer two), was thinking in terms certainly of your expertise.

Mr. Singer: Well, I would think he must have been because I think he was feeling at this point the possibility of real difficulty, insofar first of his mortgage arrangements, ~~and~~ ~~we~~ had had substantial relations before which had proved successful, and ~~they~~ ^{as I} indicated ^{in some} ~~the~~ general comments ~~and~~ I have substantial repetitive retainers from clients who have come to me and I have done their work satisfactorily so ~~that~~ ^{he} came back. ^{That} must have been in his mind.

Mr. Shibley: And here the problem was even more sophisticated because you were dealing with air rights.

Mr. Singer: Which is a very, very, complicated problem because the wording of these various applications and the fixing of the descriptions is something that is quite unique, certainly in my experience and I would think in the experience of most people who deal with land problems in ~~the~~ Ontario. As I told you earlier, the land is owned by the TTC. Mr. Moog's company ^{yes} had leased the air rights.

Mr. ~~Shibley~~ Shibley: I don't want to get into the detail with you.

Mr. Singer: These applications sort of interrelated with various levels of air rights because certain air rights attached to building one and certain others to building two and certain

Aug. 7/73
11:15-11:20 am
PLG

(Mr. Singer)

others, so at some stages we were talking about three ~~vertical~~ vertical strata of air rights, and it was very difficult to confine these things to a word description and so on, but Building A would be there, Building B would be just above it and Building C would be above it; a very complicated concept.

Mr. Shibley: Now I understand that whereas the committee of adjustment had approved of the division and while the OMB hearing was pending, an application was made to the divisional court to quash the decision of the...

Mr. Singer: That is not quite the sequence. On the ^{the} 18th of September, the hearings commenced before the OMB. At that point in ~~the~~ time the solicitor representing the ratepayers said that he objected to the whole proceeding. Substantial argument took place as to whether he wanted the OMB to rule on his objection or not. Eventually he said, "No, I will take it to the divisional court on a motion ^{for} certiorari to quash the ~~committee of adjustment's~~ committee of adjustment's decision." At that point the OMB adjourned the application that was before them, sine die, to allow the divisional court to make their decision.

Mr. Shibley: And the court hearing came on on November 3 and 6.

Mr. Singer: That's right. I had ~~not~~ anticipated that that court hearing would be disposed of in my absence because I then took off on the 20th ~~and then came back on the 23rd of September~~ of September, and I was back in my office on the 23rd of October and at that point in time I found out that the divisional court hearing had not in fact taken place, although I had anticipated before I went away that it would have been concluded.

Mr. Shibley: Now then Mr. Singer, the court quashed the decision of the..

Mr. Singer: Committee of ~~adjustment's~~ adjustment's.

Mr. Shibley: ...committee of adjustment's, and you were back to square one.

Mr. Singer: We were back to square one. We had to start all over again.

Aug. 7/73
11:15-11:20 am
PLG

Mr. Shibley: And when you started over again with a new application, you advised Mr. Moog, I take it, that you should not try to get division of the fourth and vacant parcel.

Mr. Singer: That's right.

Mr. Shibley: This being the whole thrust of the ratepayers' objection as to the use of that piece, it was to be excluded from the application.

Mr. Singer: That's right, and my advice was based on the continuing pressure that was being brought to bear on me by Mr. Moog and by Messrs. Campbell Godfrey, who were handling the mortgaging arrangements. We had to get this thing over with so that they could get their mortgage money..

Mr. Shibley: For Transamerica.

Mr. Singer: For Transamerica, and "let's get that quickly because it is expensive. Each extension of the deal with the mortgage company is expensive and is difficult and it is costing us a lot of money so let's get it over with." So at that point in time, my advice was,

~~_____~~

~~_____~~

Tape H 1728 follows

August 7, 1973
11:20 - 11:25 a
B.G.

(Mr. Singer)

61 can perhaps ameliorate the ratepayers' position by ~~removing~~ removing the undeveloped portion. We would have to ~~deal~~ deal with that at a later time and probably on the ratepayers' terms. I not focus it in ^{at} that point, ^{at} hopefully the ratepayers will remove their more violent objections."

Mr. Shibley: And to make a longer story short, just that connection, ~~the~~ ultimately you were successful in getting land division of the Trans~~america~~ building from the remaining parcel, which permitted the financing on that building to go forward?

Mr. Singer: That's right.

Mr. Shibley: But it still left ~~the~~ extant the question of the division of the fourth parcel, the vacant area —

Mr. Singer: That's right.

Mr. Shibley: — and the use to which it could be put.

Mr. Singer: That's right, and the effective date of that was January 30th.

Mr. Shibley: Yes.

Mr. Singer: And about that point in time, I think it worth noting that municipal elections had taken place and there was a new municipal council —

Mr. Shibley: Yes.

Mr. Singer: — who had some different ideas, and we then had the a whole new series of problems that faced us, because ~~new~~ resolutions were put forward and by-laws eventually passed ^{well}, the by-law that is presently on its way to the Municipal Board limits the erection of any building on this undeveloped portion of land to a height of a hundred feet, which ~~means~~ makes it absolutely uneconomic ~~of~~ any possibility of use of that land.

Mr. Shibley: Now, when you were successful in getting the Transamerica parcel severed, and the financing could go forward —

Mr. Singer: Yes.

August 7, 1973
11:20 - 11:25 a.m.
B.G.

H-1728-2

Mr. Shibley: ^{and} - you have related your attendances in that respect, what was the amount of your fee in that connection?

Mr. Singer: I don't know that you can isolate that without discussing further discussions I had with Mr. Moog about a continuing retainer.

Mr. Shibley: All right, well let's go back to that then. Now then -

Mr. Singer: I suppose you can isolate it, but I don't think it should be isolated because it ~~spoils~~ spoils the context.

Mr. Shibley: All right, let's go back. Mr. Moog had raised with you the question of a retainer -

Mr. Singer: That's right.

Mr. Shibley: - ~~in August~~ on August 23, 1972. And when was it next raised?

Mr. Singer: I can't give you a specific date. My best recollection is that it was sometime early in November.

Mr. Shibley: Of 1972?

Mr. Singer: Of 1972.

Mr. Shibley: And did Mr. Moog raise it with you?

Mr. Singer: Yes, he did. Yes, he did.

Mr. Shibley: All right; would you please tell this committee the substance of the exchange between you at that time.

Mr. Singer: Mr. Moog again raised with me the question of my continuing retainer in connection with the use of the undeveloped land. He indicated that he wanted to keep me on a regular retainer basis because of the difficulties that had arisen with the land division application, and that it was important for his future plans that he have someone available to him who had knowledge and experience in land use matters, who was used to appearing before various elected bodies, administrative tribunals, and who had had experience in negotiating with ratepayers. He further indicated that if we came to any agreement in this regard he would want to feel free to call on me at

August 7, 1973
11:20 - 11:25 a.m.
B.G.

(Mr. Singer)

at any time, which could include evenings and weekends and for meetings and ~~discuss~~ discussions as would prove necessary.

My response to him then was that I was turning over ~~the~~ in my mind certain future plans that I might have; I was not prepared ~~at~~ at that time, ~~the~~ which was the early November date, to make a definite commitment. We didn't at that point in time discuss the amount of the retainer.

And then I can follow on, ~~the~~ the matter was again raised by Mr. Moog several days later; so it's --

Mr. Shibley: Now, several days later would still be in the early part of November.

Mr. Singer: In the early, towards the middle part of November.

Mr. Shibley: Middle part of November, 1972.

Mr. Singer: Yes, I can't give you a specific date, but --

Mr. Shibley: All right.

Mr. Singer: -- in context ^x of time it's early or mid-November.

Mr. Shibley: Now, this is again early or mid-November 1972.

Mr. Singer: 1972⁶ 72.

Mr. Shibley: And it's again Mr. Moog who is raising it with you.

Mr. Singer: That's right, sir.

Mr. Shibley: All right, would you please tell the committee the subject ~~of~~ matter of that ~~and~~ discussion.

Mr. Singer: Several days later the matter of the retainer was again ~~discussed~~ discussed between Mr. Moog and myself. He stressed to me again the importance of having my services available, that he had in mind a development worth perhaps \$40 million, that it was most important to him that he have someone available who could deal with land use matters

H-1728-4

August 7, 1973
11:20 - 11:25 a.m.
B.G.

(Mr. Singer)

in this regard. We discussed the amount and agreed upon the figure of \$25,000 per year.

Mr. Shibley: Before you go on, in that respect, how was the figure established? The figure of \$25,000?

Mr. Singer: Well, by the time of that conversation - and I had in mind what he wanted -

Mr. Shibley: Yes.

~~Mr. Singer: And he said what would you think would be reasonable in that regard and...~~

(Tape H-1729 follows)

~~And he said "What would you think would be reasonable in that regard?"~~ And he said "What would you think would be reasonable in that regard?" And I said: "\$25,000 sounds like a reasonable figure." He said: "That's the figure I had in mind." There was no arguing backwards or forwards, up or down, that was the only figure that was raised, I raised it first.

Mr. Singer: Half block ~~and~~

Mr. Shibley:—at Yonge and Eglinton.

Mr. Singer: That's right. ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

[illegible]

Mr. Shibley: And it was expected that there were to be complicated procedures involved?

Mr. Singer: There is no question in view of our struggle that we were in the middle of with these very sophisticated rate-payers; they were determined that they were going to control this development. It wasn't going to be 80 stories high; it was going to be as they would like it, insofar as they were able to produce it.

Mr.Shibley: All right. At that point in time, Mr. Moog was not able to give you anything specific in the way of plans or details?

Mr. Singer: No.

Mr. Shibley: Can you, therefore, assist us as to the period of time over which this retainer was expected to continue?

Mr. Singer: Yes, we did discuss that, and we agreed immediately because I wouldn't bind myself for an indefinite period, that the retainer could be terminated at any time either by Mr. Moog or myself, and for ~~any~~ ^{some} reason either of us deemed appropriate. I again indicated to him that on my part I was still debating about certain future plans which might prevent my availability and he suggested that perhaps his thinking might change. And both of us

August 7, 1973
11:25 - 11:30 am
JLP

(Mr. Singer)

those, to my mind, were then and still are, quite logical, and therefore it could not be a fixed period nor anything more than it was terminable at the behest of either of us. We agreed that we might try this arrangement, perhaps for a year, although it might be less, and that if it proved acceptable to both of us it might continue for a ~~period of time~~ longer period because the kind of development he had ~~in~~ in hand certainly would take several years to bring to completion.

Mr. Shibley: Mr. Singer, so ~~that~~ to make it clear, the term over which Mr. Moog was to pay \$25,000 a year as a retainer could have been less than a year,

Mr. Singer: Or more than a year.

Mr. Shibley: ~~It~~ or could have covered several years. ²

Mr. Singer: That is correct.

Mr. Shibley: Depending upon the period of time this fourth and vacant parcel might require assistance from you, and advice from you as to its development?

Mr. Singer: And depending on the feeling of either Mr. Moog or myself.

Mr. Shibley: All right.

Mr. Singer: It wasn't a contract that either of us could take to court to enforce, or would attempt to.

Mr. Shibley: May we go on then. Were arrangements made as to how this retainer was to be paid?

Mr. Singer: Yes. It was further agreed that I was to submit ~~my~~ accounts on a quarterly basis, in advance, starting after the first of the year.

Mr. Shibley: That would be after the

Mr. Singer: First of January, 1973. And it was also understood that ~~that~~ while I would submit an account to him for the service being rendered in relation to the land division matter, which was the matter we were discussing a little earlier, that any such account would reflect our retainer agreement and be tempered accordingly.

(Mr. Singer)

You asked me a little earlier the ~~the~~ amount of that account, and I wanted to put in in proper context. The amount of the account that I then sent for, the finished ~~the~~ phase, was \$3,000, or that I did send when the phase was finished.

Mr. Shibley: I want that to be clear to the committee; in effect, then, the retainer is paid on a quarterly basis of \$6,250. per annum.

Mr. Singer: That's right.

Mr. Shibley: That when you have performed services, as you did here, respecting the division of the Transamerica building, that you reflect in the billing for that service—

Mr. Singer: For that account, the terms of the retainer.

Mr. Shibley: the fact that you in addition have the retainer. Is that correct?

Mr. Singer: That's exactly right.

Mr. Shibley: So you rendered a \$3,000 bill, which in your mind would be something less,—

Mr. Singer: ~~Sub~~ Substantially less.

Mr. Shibley:—than you would otherwise have billed, but for the fact of the \$25,000 retainer?

Mr. Singer: That's right, Sir.

Mr. Shibley: On the other side, it's clear though~~that~~ that you were not expected to accept the retainer in full payment of all services to be rendered in connection with~~the~~ this development?

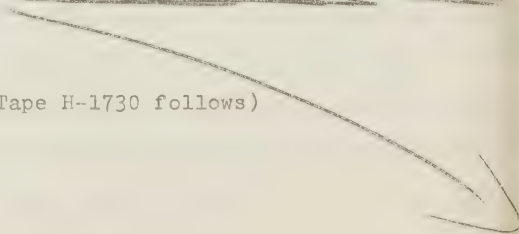
Mr. Singer: That's right.

Mr. Shibley: You were expected to render individual accounts but those accounts were to be tempered, using your words.

Mr. Singer: No, no, just the one account, the land division aspect of the account.

Mr. Shibley: I see. ~~What about the lunch account?~~

(Tape H-1730 follows)



August 7/73
11.30-11.35 a.m.
E.M.

(Mr. Shibley)

Well now, what about the fourth parcel? Were you intended to be able to render individual accounts respecting attendances as to that, tempered by the ---

Mr. Singer: No. No. From there on in, the retainer took over for all the services I was giving.

Mr. Shibley: All right. I'm glad we have cleared that up, thank you.

Now then, have you in fact submitted accounts to Canada Square in accordance with your retainer?

Mr. Singer: Yes, I have, I submitted three and I have been paid for two.

Mr. Shibley: When were the accounts rendered and which have been paid?

Mr. Singer: The 2nd of January, the 2nd of April and the 2nd of July, and the first two have been paid.

Mr. Shibley: All of this year?

Mr. Singer: Yes.

Mr. Shibley: And each in the amount of \$6,250?

Mr. Singer: \$6,250.

Mr. Shibley: In terms of the payment of the first two accounts, were they made relatively promptly?

Mr. Singer: Oh, three, four weeks. I have never had any difficulty in my dealings with Mr. Moog ⁱⁿ getting paid and I'm not really awfully worried.

Mr. Finlayson: I 'm very pleased to hear that.

Mr. Shibley: Now then, with respect to the land division, I take it your efforts in that respect continued on beyond November, 1972?

Mr. Singer: Yes, well, the final date -- I was

August 7/73
11:30-11:35 a.m.
E.M.

H-1730-2

(Mr. Singer)

able to advise them ~~in the~~ first couple of days of February that the OMB had issued an order on consent confirming the second committee of adjustment decision, and that was after negotiations with the ratepayers' solicitor, ~~and~~ they dragged me down absolutely to the wire; they had 14 or 15 days in which to make an objection, they made their objection on the last day, which was the 29th of December. ~~We~~ we then had to try and arrange for an OMB hearing. We got dates for February 13th, 14th, 15th. As those dates became closer, I entered into negotiations with their solicitor and eventually he agreed that if we would waive costs against them that they would now consent to withdraw their objection, which they did. Because what was then at issue was the division of the first two buildings and we had eliminated the fourth, so they had ~~their~~ second bite at it whenever that was ready to come.

Mr. Shibley: The third retainer, if I may describe it as that, having to do with getting severance of the Trans-America building for financing, was really complete as of early ---

Mr. Singer: The 30th of January, yes.

Mr. Shibley: The 30th of January.

Mr. Singer: Yes, and I was advised either the 1st or 2nd of February. I had the order in my hand the 1st or 2nd of February.

Mr. Shibley: All right. I want to talk to you now a little bit about the ongoing work, Mr. Singer, respecting which you are receiving this \$25,000 a year and ask you what is expected of you in that connection?

Mr. Singer: Well, ---

August 7/73
11:30-11:35 a.m.
E.M.

Mr. Bullbrook: I 'm a little bit concerned here

and I want to voice this concern, and I don't want to get into the question of privilege, but like the Premier, Mr. Singer, has come here without the benefit of counsel, they both being adequately and obviously able to advise themselves, but I am concerned that, and I would ask counsel to share my concern as I am sure he ~~does~~ ^{document} does inherently that we do not attract Mr. Singer into a question of violating the solicitor-client privilege and I just want to voice this concern. Not only that, I want to make it amply clear that I haven't in any way made up my ~~own~~ mind that such a privilege exists before this committee, but we did through a tortuous method, in connection with the previous witness, assure him that for our present purposes ^{would} we ~~try~~ to avoid that confrontation.

Mr. Shibley: Mr. Bullbrook, these are questions in very ~~any~~ general terms, as the witness knows, and again I understand from Mr. Singer that whatever information he is providing to this committee, it is information that he has reviewed with Mr. Moog and received Mr. Moog's permission and consent to make this amount of disclosure. I have not ~~any~~ reviewed the files, and Mr. Singer knows that I am not intending any information of any nature, other than what has been approved by Mr. Moog,

(Tape 1731 follows)

August 7, 1973
11.35 - 11.40 a.m.
M.R

(Mr. Shibley)

~~but not showed the files to Mr. Singer. I know that I~~
~~can not release any information of any nature other than~~
~~what has been approved by Mr. Moog to be provided to this~~
committee.

I just think it important, however, to characterize the type of work ~~was~~

Mr. Finlayson: Mr. Chairman, I'm getting more and more concerned about this matter. When Mr. Singer spoke to me on Thursday night, he said that he proposed to get a signed statement from Mr. Shibley and the chairman of this committee, saying that if they were allowed to look at those files that it would be on the basis that by so doing there would be no waiver of privilege.

Now I'm told that for the first time that Mr. Shibley ~~has~~ refused to give such an undertaking to Mr. Singer. My client tells me that Mr. Singer went to, I believe his home, on Sunday, and there read to him his prepared statement which he proposed to give, but my client certainly has never authorized Mr. Singer to answer these probing questions by Mr. Shibley with respect to that solicitor-client relationship, and I'm putting Mr. Singer on notice right now that I regard this as a violation of that solicitor-client privilege.

Mr. Singer: I can only say, Mr. Chairman, what I said before. Mr. Finlayson referred to my prepared statement. There are two documents; ~~one~~ is a statement which I read, of which ~~properly has~~ ^(copy is done) been distributed, and the second is not a statement, it is a summary. There are only two copies of that in existence; one Mr. Shibley has and the other I have.

I went over both those documents with Mr. Moog on Sunday afternoon and asked him if it would then be in order to make it available to Mr. Shibley. Mr. Shibley did not get this document until Monday and Mr. Moog told me it was.

August 7, 1973
11.35 - 11.40 a.m.
M.R.

Mr. Shibley: And, Mr. Singer, I am only covering

with you ~~and~~

Mr. Singer: That's right, what's in this document.

Mr. Shibley: ~~and~~ What's in this document.

Mr. Singer: That's right.

Mr. Shibley: Well, then if I may go on, Mr. Singer,

I'd like to know what was intended to be covered by the
retainer of the \$25,000 per annum respecting on-going work for
Mr. Moog.

Mr. Singer: Well, very briefly, Mr. Shibley, it
relates to the development and use of the ~~the~~ undeveloped portion ~~of~~
~~of~~ this half-square block. Several new things had happened.
As I say, a new council took office at the city of Toronto.
Resolutions were presented setting - suggesting inordinate
setbacks and so on for this property. If those resolutions
had, in fact, become by-laws and become enforceable, it would
have prevented the use of this land by my clients because,
as I said, we are building over on top of the TTC and my
understanding is that the arrangements with the TTC are such
that we cannot interfere with their on-going activities.

They have repair yards, turning ~~basins~~ basins,
all sorts of things there, and one important aspect would be
if we had to set back a substantial distance from the street
line of Duplex, the only way we could do that would be to
drive piles down into the TTC use, which would ~~permit~~ their
proper turning and facilities. So that was very important to us.
That form of by-law and/or resolution was eventually not acted
upon, but what the city council did was to pass a by-law restricting
the height of any building on this land ~~and~~ and certain other
lands, ~~but~~ but this is the only land that I'm concerned with, ~~to~~
to 100 feet and that by-law is now scheduled to come on some
time before the OMB for its approval, the by-law will not become
valid.

August 7, 1973
11.35 - 11.40 a.m.
M.R.

(Mr. Singer)

If that -- and that by-law, theoretically in a period of any event, is only to last for two years, although the by-law doesn't say so, discussions have indicated that if that by-law is, in fact, passed and becomes law and is approved by the OMB, there is just no way that we can economically use that land.

So that we are concerned with the validity of the by-law, our ability to negotiate further with the municipality of the City of Toronto.

Mr. Finlayson: Mr. Chairman, is it necessary to go into this detail? The witness has answered the question as to what the

Mr. Shibley: I'm not ^{concerned} ~~prepared~~ to do that, Mr. Finlayson. I was really only concerned on behalf of the witness's position.

Mr. Singer: Well, those are the things that are of great importance to my client and

Mr. Shibley: All right. Well, now then

Mr. Singer: Can he use the land or can't he?

Mr. Chairman: Important and time-consuming on your part.

Mr. Singer: Right.

Mr. Shibley: Now, then, Mr. Singer,

H 1732-1

Aug. 7/13
11:40-11:41 am
PLG

~~Mr. Chairman:~~
Mr. Chairman: I think for the sake of everybody concerned,
it might be wise to take a ten-minute break here.

The committee recessed at 11:42 a.m. and ~~recessed~~

Tape H 1733 follows

~~Mr. Chairman:~~ resumed at 11:55 a.m.

Mr. Chairman: ~~Ladies~~ Ladies and gentlemen I call the meeting back to order. Mr. Shibley.

Mr. Shibley: Mr. Singer, I want to pass on to ~~the~~ the matter of what, if any, exchanges between yourself and Mr. Moog, even in a collateral sense, touched upon the Hydro head office building.

Mr. Renwick: Mr. Chairman, before you ~~a~~ move on, could I ask Mr. Singer a couple of questions, because I am not clear in my mind, and while the evidence is still fresh in my mind about it, I'd like to be clear about it. I want to ask Mr. Singer to clarify specifically for me the three elements of the retainer; that is, the amount is \$25,000.

Mr. Singer: That is correct.

Mr. Renwick: Do I take it, or is it correct, that that is a fixed retainer which would not vary in accordance with the amount of work which was done in a given year?

Mr. Singer: That is correct.

Mr. Renwick: In other words, if Mr. Moog does not call upon your services during a ~~a~~ particular year, he would be obligated so long as the retainer continued to pay and if you did more work of a greater, in your judgment, of a greater value than that, you would not charge that excess amount?

Mr. Singer: That's right, bearing in mind I think that if Mr. Moog found there was no work for me to do, because of the severable nature of the retainer, he wouldn't be well advised at all to keep it ~~excess~~ *extent*.

Mr. Renwick: I can understand that, but for practical purposes, the reservation of the right on each side to terminate the unilateral right by ~~a~~ each of you to terminate is really based on the assumption that ~~the~~ dissatisfaction might arise in the future or that there is no work to do.

Mr. Singer: Or that his plans ~~a~~ might change, or that my plans might change.

Aug. 7/73
11:55-12:00 noon
PLG

Mr. Renwick: But there is nothing unusual about that kind of arrangement.

Mr. Singer: Oh no. None at all.

Mr. Renwick: Now so far as the time is concerned, I take it that within that limitation, it is intended that this will be what I would call a retainer indefinite as to time and in the anticipation of the parties that as the situation was when the arrangement was made that it was intended to last longer than one year, although it was terminable on ~~some~~ a shorter period.

Mr. Singer: Yes. Yes. In those terms I would agree with that.

Mr. Renwick: ~~That~~ it was for an indefinite time, a yearly retainer for an indefinite number of years, subject to this overall unilateral right of each party to terminate without reason being given?

Mr. Singer: That is correct.

Mr. Renwick: Now the other area of the retainer that I am interested in is back again to the point in time in which you would feel free to render an account outside of your retainer in a given year. Are there any circumstances ^{present}

Mr. Singer: No.

Mr. Renwick: In other words ^{is}

Mr. Singer: Not in relation to this Yonge-Eglinton block. If Mr. Moog suggested to me that he has got a problem at Jane and Keele or something, then we would review that situation, but this only relates to the Yonge-Eglinton block.

Mr. Renwick: I am taking it then, that the space aspect of the retainer relates to the four-street block that you have referred to.

Mr. Singer: That's right.

Mr. Renwick: That if Mr. Moog were to call you on a Sunday, a weekend or an evening and ask you about some other problem, that you would feel free to bill him separately and independently about that matter?

Mr. Singer: That is quite right.

Mr. Renwick: I think that clears up my problems Mr.

Chairman. Thank you, Mr. Singer.

Mr. Chairman: Mr. Newman.

Mr. W. Newman: One ~~small~~ question to Mr. Singer, knowing ~~how~~ in fact of his great legal prowess, I have ~~heard~~ ^{heard} about it so many times I know about it. Talking about this half-block of land ~~of~~ which could be basically sterilized

Tape H 1734 follows

August 7, 1973
12.00 noon - 12.05 p.m.
M.R.

~~Mr. Chairman: Mr. Newman.~~

~~Mr. W. Newman: Just one question to Mr. Singer.~~

~~Knowing the fact of his great legal prowess since I have heard about it so many times, I know what, talking about this anti-~~
~~now block of land which would be eventually utilized by the~~
present by-law, keeping in mind committees of adjustments, planning boards, municipal board hearings, government agencies that might have to be involved, actually Mr. Moog could get off with a pretty cheap retainer at \$25,000 a year, couldn't he?

Mr. Singer: Oh, I think it's to his very substantial advantage if he can eventually realize his objective, which is a development in the end worth \$40 million. I think he's made a very good investment.

Mr. Renwick: Well, Mr. Chairman, perhaps we could correct it that Mr. Singer, also being a very capable negotiator of the value of his services, feels that on balance it will work out equitably to both parties.

Mr. Singer: That's right and I'm not dealing with an inexperienced businessman who would come to this kind of an arrangement unless he felt it was to his good as well as to mine.

Mr. Henderson: Mr. Chairman, counsel has further questioning. I have some once he has³ completed but I wanted to ~~see~~ ^{similar} he may have ~~some~~ questions in his questioning ...

Mr. Shibley: I had started to ask you, Mr. Singer, about any communications referable to the Hydro head office building as between yourself and Mr. Moog. And I want particularly to take you to the month of November, 1972, and ask you whether you had any discussion with Mr. Moog referable to the Hydro building?

Mr. Singer: None, sir.
thinking,

Mr. Shibley: I'm ~~thinking~~ particularly of the approach to you by representatives of the press in the early part of November, 1972.

August 7, 1973
12.00 noon - 12.05 p.m.
M.R.

Mr. Singer: I'm not sure that I can fix it specifically at that date. I made passing reference to it in my opening statement, but I can recall very definitely that some time before either discussion in the Legislature about this problem and before there were any newspaper articles relating to this problem, I did have a telephone conversation with Mr. Alistair Dow of the Star, who apparently was embarked on some kind of research on behalf of his newspaper in relation to this problem. I presume from his remarks that he wanted to know what I knew about it. I told him I didn't know anything about, and I pointed out to him that I was under retainer to Mr. Moog and in relation to the Yonge-Eglinton block, and discussed ~~with~~ in very general terms, with him at that point in time, my retainer.

Mr. Shibley: Now, the retainer you are talking about at the time of your discussions with Mr. Dow, was that retainer number three?

Mr. Singer: Three and four, which sort of intermingle, yes.

Mr. Shibley: Had you yet been made the retainer of \$25,000 a year?

Mr. Singer: I can't specifically fix in point of time when that took place, Mr. Shibley. A similar conversation took place between myself and Mr. Jonathan Manthorpe of the Globe, and as I said, he is or has been in this room this morning, and I asked him if he remembered it and he said, ~~yes~~, ~~yes~~, ~~he did~~, and the conversation was substantially the same as I had with Mr. Dow, and he isn't able, any better than I am, to fix a date to our conversation.

Mr. Shibley: You mentioned earlier that the discussion respecting which the \$25,000 retainer was arranged, took place in the early part or around the middle of November, 1972. Is that correct?

Mr. Singer: That's the best recollection I have.

August 7, 1973
12.00 noon - 12.05 p.m.
M.R

Mr. Shibley: What I'd like to know is whether

you had already had discussion with Mr. Dowd of the Star
of Mr. Manthorpe of the Globe as at that time?

Mr. Singer: I can't say with certainty.

I can't say with certainty and I, actually I solicited from

~~Mr. Manthorpe that regarding his recollection of a specific
date and by all means he can't say with certainty.~~

H-1735 to follow

(Mr. Singer)

Mr. Manthorpe this morning, his recollection of a specific date, and he tells me he can't say with certainty.

Mr. Shibley: Did you subsequently discuss the matter of these press inquiries with Mr. Moog?

Mr. Singer: Yes I did.

Mr. Shibley: And would you please tell the committee what you said to Mr. Moog?

Mr. Singer: I told him that I had inquiries from two reporters, one from the Star and ^{and} one from the Globe, they were interested and concerned about Hydro, and he said to me, in effect, this is a paraphrase, ^{in fact} ~~and the next~~ paraphrase many months after the day ^{the} "The deal I have with Hydro is a good deal for the Province of Ontario. If you want to see my files in relationship to them, to it, to the deal, please come and have a look." And I said I really wasn't concerned, but I thought he should know that the newspaper men were inquiring. I never did examine his files, and ~~that~~ that matter was never again pursued with me, or by me.

Mr. Shibley: Now again, that conversation with Mr. Moog was after the reporters had ~~approach~~ approached you, but it was before ~~at~~ there was any press report and any questions raised in the House?

Mr. Singer: That's exactly right, and I confirmed that particular aspect with Mr. Manthorpe this morning because my memory might be a little shaky on it, and he advised me that that's his recollection of it.

Mr. Shibley: Are you able to relate the time of your discussions with Mr. Moog respecting the press ~~inquiry~~ ^{inquiries} to the time of the discussion with him respecting your retainer?

Mr. Singer: I am not, unfortunately.

Mr. Shibley: You can't say whether it was before or after?

Mr. Singer: No.

Mr. Shibley: All right.

Mr. Singer: There's one more newspaper inquiry as well.

Mr. Shibley: Let's not leave out any.

Mr. Singer: Yes. Bob MacDonald of the Sun called me one day after the inquiry. I believe after the inquiry had started; ~~the~~

(Mr. Singer)

was anxious to prepare a profile on Mr. Moog, and he discussed it with me. I told Bob MacDonald that I was acting for Mr. Moog, and Bob MacDonald subsequently wrote an article in the Sun, and mentioned this fact.

Substantially, what I want to make quite clear, Mr. Shibley, is at no time have I tried to conceal my relationship with Mr. Moog from any member of the press, from my colleagues in the Liberal Party, or from anybody. And even had I tried to do it, it would be a pretty ridiculous kind of an effort because the nature of my relationship was to appear publicly, which I did on many occasions, before the OMB, before council, before various bodies, and certainly when I appeared, I'm not hiding anything, there I was; it's not a secret retainer in any way.

Mr. Shibley: I understand that, Mr. Singer. I'm concerned, however, to know the circumstances that existed as at the time the \$25,000 retainer was made firm. It was first raised with you, not as an amount, but that type of retainer was first raised with you on August 23, 1972. Is that correct?

Mr. Singer: Well, it depends what you mean by type. The question of a retainer was first raised with me,

Mr. Shibley: Well what I meant by type is the first three services rendered were dealt with on the basis of a bill for services already rendered. Is that correct?

Mr. Singer: I've lost you on that. Could you *rephrase that question?*

Mr. Shibley: Well, on the first three retainers we covered, you did the work, and having regard for the amount of work and the success realized, you rendered the bill.

Mr. Singer: Yes, that's correct.

Mr. Shibley: This was the first retainer where the money, so to speak, was paid up front, of the performance of service. Is that right?

Mr. Singer: Yes, that's correct.

Mr. Shibley: And that was first raised with you on August 23, 1972? Is that right?

Mr. Singer: Yes.

Mr. Shibley: And it was made firm with you, and the precise terms of it were settled between Mr. Moog and you, sometime around the ----

Mr. Singer: ^{at} Early or mid-November.

Mr. Shibley: --early or mid-November, 1972. You had discussion with Mr. Moog at that time about the inquiries of the two newspaper reporters ----

Mr. Singer: Well, you said ^{at} "that time"; I just can't fix the time except my only ability to fix it is that it was before the matter had been raised in the Legislature, and before any newspaper articles had been written in regard to it.

Mr. Shibley: So that the discussions with Moog took place in November, the questions of Mr. Nixon having been tabled on December 1.

Mr. Singer: The discussions with Mr. Moog about the ----
Mr. Shibley: The press inquiry.
~~retainer~~ or about the newspapermen?

Mr. Shibley: Well, actually, it would be about both.

~~Mr. Singer: I can fix November~~

(Tape H-1736 follows)

Aug. 7/73
12:10-12:15 pm
PLG

(Mr. Singer)

~~The retainer of about the 200 pages men?~~

~~Mr. Shibley: Well, just for your assistance and that of~~

Mr. Singer: I can fix November, early or mid-November, concerning the retainer. I can't fix in point of time the discussions with Mr. Dow and Mr. Manthorpe, and my only ability to fix my ~~a~~ discussion with Mr. MacDonald is that I think it was after the committee started its hearings, and there is an article published in the Sun giving ^a ~~the~~ profile of Mr. Moog. Now that date is easily ascertainable.

Mr. Shibley: Well, just for your assistance and that of this committee, Mr. Singer, the evidence of Mr. Fleck was that on November 7 he combined the knowledge of Cronyn having told ^{him} ~~them~~ of complaints of Ellis-Don with the knowledge of press inquiries on November 7, to bring about in his thinking a ~~the~~ request of Mr. Gathercole for a narrative, and that he made a note to request that narrative ~~at~~ when Mr. Gathercole was going to be at the office for other reasons on November 9. Having given you that ^{background} ~~fact~~ I ~~should~~ should tell you there was a narrative prepared, a document prepared dated November 15, 1972. Having regard for that information provided by Mr. Fleck as to the time when he heard of press inquiries, it appears to have been on or before November 7, does that assist you in any way to pinpoint first the date of your discussions with Mr. Moog as to press inquiries?

Mr. Singer: I am afraid it doesn't. I hear what you tell me about what Mr. ~~the~~ Fleck might have been doing. It is a matter of which I have no personal knowledge, but it doesn't assist me. I don't know what Mr. Fleck was doing, ~~what~~ what he had in mind. All I can tell you is my recollection of events in which I participated, to the best of my recollection. I can't give you a better date. I had hoped when I saw Mr. Manthorpe ~~here~~ this morning that he could give me a better date ^{but} ~~he couldn't either.~~

Mr. Shibley: Did you have any conversation with Mr. Moog about the Hydro building following the tabling of Mr. Nixon's questions in the House?

Aug. 7/73
12:10-12:15 pm
PLG

Mr. Renwick: Could I interrupt?

Mr. Shibley: Yes, surely.

Mr. Chairman: Mr. Renwick.

Mr. Renwick: Mr. Chairman, Mr. Singer, you would have been in Toronto throughout November of 1972?

Mr. Singer: Yes, I was.

Mr. Renwick: And you are an avid reader of the newspaper^S?

Mr. Singer: Right.

Mr. Renwick: So that if there had been any press report or if there were a press report about the Hydro building, you would be knowledgeable about, it, aware of it, ~~and~~ and have read it.

Mr. Singer: I would think so.

Mr. Renwick: Thank you.

Mr. Shibley: I had asked you the ~~same~~ question, Mr. Singer, after the tabling of Mr. Nixon's questions in the House, did you have any discussion with Mr. Moog about the Hydro head office?

Mr. Singer: No, Sir.

Mr. Shibley: I want to take you back to August now, Mr. Singer, August 23, and I want produced to you the following document -- August 23 being the date when the matter of your retainer was first raised by Mr. Moog. The first document I want produced to you is one dated July 14, 1972, Exhibit 175. This is a letter, Mr. Singer, with which the committee is familiar, but with which I want to make you familiar, from Mr. Smith of Ellis-Don, to Mr. Cronyn, and you will notice that in substance it is a letter of complaint as to the manner in which Hydro had handled the letting of the Hydro building.

Mr. Singer: That's what it seems to be.

Mr. Shibley: Yes, and ~~that~~ ^{that} might tell you ~~that~~ ^{that} Mr. Smith gave evidence in varying terms that he felt it was a set-up job, etc., and it is clear from this correspondence that as ~~as~~ at this period of time, Mr. Smith was ~~saying~~ complaining to Mr. ~~Cronyn about the things that Hydro had let~~
Tape 1737 follows

H-1737-1

August 7, 1973
12:15 - 12:20 p.m.
B.G.

(Mr. Shibley)

~~Mr. Cronyn~~ Cronyn about the method by which Hydro had let this contract. I should also ~~also~~ tell you that there is in evidence that Mr. Smith talked to Mr. Dillon, of Task Force Hydro, during the period July 14, 1972 and August 21, 1972, and again with respect to the manner of letting of the contract, and Mr. Dillon appears to have spoken to Mr. Seguin, one of the Commissioners, asking whether Mr. Seguin would see Smith, and Mr. Seguin, having declined to see Smith, Dillon so advised Smith and Smith then wrote to Seguin a letter dated August 21, 1972, and I would like that document produced to you, It's Exhibit 169.

Incidentally, had you ever seen the previous exhibit?

Mr. Singer: No, sir.

Mr. Shibley: No, all right.

Mr. Singer: As I read it there are certain phrases that sound familiar. My suspicion is that I read some extracts from it in the press, but I have never seen the document.

Mr. Shibley: Yes, after it was tabled as an exhibit.

Mr. Singer: Well, in the press, I don't ~~if~~ know whether it was before or after, I presume it was after. But that's my own opinion -

Mr. Shibley: All right, I just want to complete that. With respect to the Smith-Cronyn letter, did you have any knowledge or information respecting that communication prior to my discussions with you recently?

Mr. Singer: No, sir.

Mr. Shibley: ~~B~~ All right.

Mr. Singer: In fact, let me go on— ~~instead~~ I didn't know there was a Mr. Smith or an Ellis-Don until this thing started.

Mr. Shibley: All right, now then, I have produced to you a letter dated August 21, 1972, from Mr. Smith to Mr. Seguin, Exhibit 169~~th~~, and you will notice again the general tenor of it being one of complaining^{about}, again, it being a setup ~~for~~ job really, not to work too hard on it, we were asked to quote rates, and so on,

August 7, 1973
12:15 - 12:20 p.m.
B.G.

(Mr. Shibley)

and it's a basically complaining letter registering his views on why he didn't feel he got a fair shake. That's the general tenor of it.

Mr. Singer: That's what it seems to be; that's what it seems to be, yes.

Mr. Shibley: And I also want produced to you, two press releases, Mr. Singer. First of all, had you ever seen or did you have any knowledge or information as to what is in Exhibit 169 as at the time of your discussion with Mr. Moog on August 23?

Mr. Singer: None whatsoever, and let me say in so far as Mr. Seguin was concerned, when it emerged that he is a Commissioner of the Ontario Hydro it came as quite a surprise to me because I had never heard him identified as a Hydro Commissioner before. I don't know Mr. Seguin, I have never met him.

Mr. Shibley: Now, I am having produced to you also, Mr. Singer, two press releases, the one being dated July 21, 1972, Exhibit 41, and the second being dated August 25, 1972, Exhibit 88, and prior to my interviews with you, did you have any knowledge or information as to the circumstances surrounding the preparation of, and the timing of, the publication of a press release by Hydro?

Mr. Singer: None whatsoever.

Mr. Shibley: Did you ever discuss with Mr. Moog or anyone the delay that ensued between July 21, 1972 and August 25, 1972, when the press release was finally made?

~~Mr. Singer: No, sir.~~

~~Mr. Shibley: All right.~~

~~Mr. Singer: I told you I never discussed with Mr. Moog any of the Hydro matters in which he was involved.~~

~~Mr. Shibley: I want next produced to you...~~

August 6, 1973
12.20-12.25 p.m.
M.F.

H - 1738 - 1

~~release was finally made~~

Mr. Singer: No, sir.

Mr. Shibley: All right.

Mr. Singer: I told you I never discussed with Mr. Moog any of the Hydro matters in which he was involved.

Mr. Shibley: I want next to produce to you what is exhibit 177, also dated August 25th, 1972, and styled "Suggested answers to questions that may develop following the distribution of news release on new head office building", one of the questions being why was Canada Square Corporation selected.

Has the subject of this memorandum ever been the matter of discussion between you and anyone on behalf of the Moog organization?

Mr. Singer: No, sir.

Mr. Shibley: And in particular as at August 23, 1972, were you aware of the circumstances of the preparation of this type of memorandum?

Mr. Singer: No, sir, I have no knowledge of it whatsoever. All that Moog and I discussed on the 23rd of August was the matters I related to you in connection with the Yonge-Eglinton block. The word Hydro never came up once.

Mr. Shibley: Mr. Singer, you will have noted from the collection of the documentation that I have produced to you that during the period July and August, and continuing really to August 25th, there appears to have been registered with a variety of people the complaints of Mr. Smith of Ellis-Don.

Mr. Singer: That's what it would appear, yes.

Mr. Shibley: And it appears that for whatever reason the press release was delayed until August 25th -----

Mr. Singer: So you tell me, I don't know.

Mr. Shibley: And that pending that time, and by August 25th, the exhibit 177, "Suggested answers", had been prepared.

H - 1738 - 2

(Mr. Shibley)

Now, I am taking from your earlier testimony that whatever may have been the situation as between Mr. Moog and Hydro respecting the head office building, as disclosed by these memoranda, to which I have adverted, it was no part of your knowledge as at the time Mr. Moog first raised the subject of a retainer with you?

Mr. Singer: That is absolutely correct. I think I have said it several times already, I repeat it. No.

Mr. Shibley: Whatever else may - I am just at the moment canvassing what was in your mind at the time, Mr. Singer. It was no part of your thinking at that time, in fact you knew nothing of it?

Mr. Singer: Absolutely correct.

Mr. Shibley: And I might tell the members of this committee, because I think it is fair to the witness to have it recorded, that when I interviewed Mr. Singer it was significant in his thinking that the retainer was first raised in August, August 23, 1972, as opposed to November when it was actually confirmed and in his mind it was therefore unrelated. Is that not so, Mr. Singer?

Mr. Singer: That is absolutely correct.

Mr. Shibley: And that, of course, is because you knew nothing of the documentation that I have confronted you with, nor the circumstances revealed by that documentation. When Mr. Moog first raised the retainer with you on August 23, 1972?

Mr. Singer: That again is correct. I have absolutely no knowledge of that documentation.

Mr. Shibley: Now then, I have to put it in these terms, the next period of time when there appears to have been activity respecting the manner of letting of the Hydro contract was in November, 1972, Mr. Singer, and that is reflected by the evidence that I have outlined to you of Mr. Fleck, and I am most concerned to have a clear understanding as to what you knew and what was

August 8, 1913
12.20-12.25 p.m.
M.F.

H - 1738 - 3

(Mr. Shibley)

in your mind, as opposed to what was in anybody else's mind, what was in your mind as at the time Mr. Moog raised again with you the subject of an open-ended type retainer. Did you know in November, otherwise than by reason of the press inquiries, and even then you are unsure of which came first — had you any understanding or knowledge in November when Mr. Moog raised this matter of the retainer with you, ~~40-41~~

Tape H 0 1739 follows

August 7/73
12.25-12.30 p.m.
E.M.

H-1739-1

(Mr. Shibley)

~~or I would like to know when Mr. Moog raised this matter of~~
~~the retainer with you~~, that it was again the subject of
re-examination if you like?

Mr. Singer: No, I did not.

Mr. Shibley: Were you aware, for example, that Hydro
was in the process of preparing a narrative of ---

Mr. Singer: No, sir, I was not.

Mr. Shibley: Was anything indicated to you by Mr.
Moog or anybody else that would indicate concern on their part
as it related to the Hydro project?

Mr. Singer: At no time.

Mr. Shibley: So that from where you sat, all he
was ~~do~~ doing really in November was following up with the
retainer that he had first raised with you ~~on~~ on August 23?

Mr. Singer: That's right.

Mr. Shibley: Can you make any ~~an~~ comment whatsoever
respecting the coincidence of his having raised the question of
a retainer on August 23 as it relates to all these other exhibits?

Mr. Finlayson: Well, I object to that very strenuously.

Mr. Singer: I have no comment because I don't know
anything about it.

Mr. Finlayson: I object to that very strenuously,
There isn't a tittle ~~of~~ evidence that Mr. Moog knew anything
about all those ex^{hibits} that have been put to this witness.

Mr. Shibley: I will ask Mr. Moog ^{he remains + witness} that when ~~that~~

Mr. Finlayson: All right, why don't you wait then
before you make those ^{kind} ~~kind~~ of statements about coincidences
and the like?

Mr. Shibley: Well, Mr. Finlayson, I will ask Mr.
~~Mr~~ Moog that when he is in the witness box. I must ask Mr. Singer

August 7/73
12.25-12.30 p.m.
E.M.

H-1739-2

(Mr. Shibley)

these questions while he ---

Mr. Singer: I ~~thought~~ thought I had answered your question. If you want to repeat it, I will answer it again.

Mr. Chairman: I think your answer was there.

Mr. Shibley: And I take it your answer would be the same as for November of 1972?

Mr. Singer: Exactly the same.

And further, Mr. Shibley, if you are asking me to postulate, I have no ability to postulate because I didn't know of the existence of these documents or the ~~fact~~ ^{correspondence}.

Mr. ~~Shibley~~ Shibley: Or ~~even~~ even of the circumstances ~~of~~ ^{any}

Mr. Singer: Or even of the circumstances.

Mr. Shibley: Disclosed by them?

Mr. Singer: That is exactly right. So it is just impossible for me to imagine what might have been going on in somebody else's ~~mind~~ mind. There was no indication to me in any way.

Mr. Shibley: I know you have given a ~~very~~ very general answer to this particular question but I want to put it to you quite specifically, Mr. Singer. Did you ever have any discussion with Mr. Moog, following Mr. Nixon's question ³² of any ~~kind~~ ^{nature or} kind whatsoever?

Mr. Singer: Did I ever have any discussion?

Mr. ~~Shibley~~ Shibley: Referable to the Hydro head office building.

Mr. ~~Shibley~~ Finlayson: He had some over the weekend, we know that. Now just how general is that question supposed to be?

Mr. Singer: Would you give me the question again, sir?

Mr. Shibley: Following the table ^{ing} of Mr. Nixon's questions---

August 7/73
12.25-12.30 p.m.
E.M.

Mr. Singer: Which was late November or early December.

Mr. Shibley: December 1.

Mr. Singer: Yes.

Mr. Shibley: And continuing to the present time. ~~let's~~ let's exclude the last week when you had discussion with Mr. Moog ~~did you have any discussion with Mr. Moog as to the~~ conduct of this committee or the evidence to be adduced at it or anything ~~whatsoever~~ whatsoever having to do with the Hydro head office building?

Mr. Singer: No. I think there may have been a remark something like, "Your boys are being pretty rough on me" and I said, "Well, that's ~~very~~ too bad, there's nothing I can do or would even attempt to do". I am taking that sort of out ^{of} of the air and perhaps out of context but it would -- I can recall something like that.

Mr. Shibley: And you have already said that you declined Mr. Moog's offer to review the documentation?

Mr. Singer: Indeed I did.

Mr. Shibley: He having told you it was a good deal and if you wanted to look at it ---

Mr. Singer: That's right.

Mr. Shibley: Now, I want to produce to you, Mr. Singer, the letter of April 25th, 1973, to the Premier from Mr. Gathercole, which is Exhibit ---

Mr. Singer: I am familiar with that document, Mr. Shibley.

Mr. Shibley: ^{this} ~~Mr. Gathercole, Mr. Chairman, I am asking for leave~~
~~this time to be have a supplementary exhibit produced just for the~~

(Tape 1740 follows)

August 7, 1973
12.30 - 12.35 p.m.
M.R.

(Mr. Singer)

~~Mr. Shibley:~~ ^{be made} Mr. Chairman, I'm asking for this copy to ~~have~~ a supplementary exhibit just for the reason that it has a notation on the top right hand corner. And the notation is "copy received from Vernon Singer".

Mr. Chairman: That will be Exhibit 199.

Mr. Shibley: Now, did you, in fact, provide -

I'm sorry, this copy which I might tell you was produced to me as part of Mr. Moog's files - did you provide this copy of this letter to Mr. Moog?

Mr. Singer: I don't know whether I provided this copy of this letter. I provided a copy of the letter. This is the copy you've given me and I don't know which is which. I did provide a copy of this letter to Mr. Moog, yes.

Mr. Shibley: Now, then, would you tell the committee the circumstances surrounding the providing of that copy to Mr. Moog?

Mr. Singer: Yes. The document was tabled by Mr. Davis in the Legislature on the 27th of April, 1973. It was then a public document. It did concern Mr. Moog's relationship with Hydro. I thought that he might be interested in reviewing it. I contacted ^{him} ~~as~~ or someone in his office and said I had the document, was he interested in it? I think it was a conversation with Mr. Moog. He said yes, and he would send someone down to my office for it, which is what happened.

Mr. Shibley: I want to make it clear, Mr. Singer, this document was provided to Mr. Moog as a courtesy ...

Mr. Singer: That's right.

Mr. Shibley: ...only.

Mr. Singer: That's right. ~~As~~ ^{As} I said in my opening statement, ~~this~~ this is a regular part of my procedure since I've been in public office and I send out all sorts of documents.

August 7, 1973

13 16 - 13 15 p.m.
M-R.

Mr. Shibley: It had already been made a public document?

Mr. Singer: It was a public document. When Mr. Davis stood in his place and said "I'm tabling the document" it was then a public document. I presume multi-copies went to the press and copies were available to me and anybody else who wanted them.

Mr. Shibley: All right. But it was no part of a service being rendered by you for which ...

Mr. Singer: Absolutely not.

Mr. Shibley: Well, I just want to make it a matter of record it was not.

Mr. Singer: By the same token, if somebody tabled a document relating to Mr. Shibley I'm sure that I would indicate to Mr. Shibley I had it and he could have a copy of it if he wanted it.

Mr. Shibley: Thank you. But, as I say, it was something you did as a matter of courtesy? That's all there was to it?

Mr. Singer: Right.

Mr. Shibley: And when you called Mr. Moog to tell him about it, what, if any, discussion took place?

Mr. Singer: None. He said, "Isn't that interesting and I'll send down for it".

Mr. Shibley: I see. And that was the whole ...

Mr. Singer: And that was the whole conversation. I never discussed this document with him. I just made it available to him.

Mr. Shibley: Mr. Chairman, I'd just like to suggest that we recess now. It's the normal luncheon recess time. I feel I'm complete as to my examination of the witness but I just want to cover my notes because I did skip over some things that I didn't think important, and perhaps some committee members might also have questions that could be left until *later*.

August 7, 1973
12.30 - 12.35 p.m.

Mr. Chairman: Do the committee members want

to proceed now or later on this afternoon?

Mr. Henderson: I have two questions, Mr. Shibley,

that I would like to ask and I can either wait or ~~proceed~~
whatever you prefer, Mr. Chairman.

Mr. Chairman: Well, do we adjourn now?

Mr. Finlayson: Mr. Chairman, could I have some

indication of where we're going from ~~here~~? I don't know what
this has been all this morning. As far as I'm concerned,
it's a complete waste of half a day of the committee's time.
But I'm representing Canada Square and Mr. Moog and this is
the third time he's been asked to step down. ~~and I don't know what to do about it~~

H-1741 to follow

(Mr. Finlayson)

~~Mr. Finlayson:~~ Can we go home or do we have to sit around and listen to some more of this?

MR. Chairman: I think we're being... ~~...~~

Mr. Bullbrook: We don't oblige counsel to stay. If he doesn't want to stay, that's his obligation to his client. And I want to record now, if I might, that counsel should be aware of the fact that in the opening statement made by the chairman, it was brought to the public's attention that the committee unanimously regarded the matter as relevant. The significance of the relevance I am sure ^{is} affected each ~~one~~ member differently, but that was unanimous. ~~...~~ I think the point that Mr. Finlayson and all others should recognize is that when matters are brought to the attention of the committee, we feel a public responsibility to assure ourselves that after the report is written no one can ever say that, no matter what the significance of the relevancy or otherwise is, this committee didn't go into it.

Mr. Chairman: I don't think too many will be able to say that, Mr. Bullbrook.

Mr. Bullbrook: That's right.

Mr. Chairman: Thanks for the remarks. We will be completing, I hope, Mr. Singer this afternoon; then I understand we will be proceeding to Mr. Nixon; depending on what time we're through there, I expect we will be proceeding with Mr. Moog following that.

Mr. Henderson: No, Mr. Nixon.

Mr. Bullbrook: He said that.

Mr. Chairman: Mr. ~~and~~ Nixon, yes.

Mr. Genest: When do we get to Mr. Lewis?

~~...~~ ^{a little} Mr. Renwick: He's back in his office and he feels ~~left~~ out.

Mr. Chairman: Perhaps we can arrange for it, Mr. Renwick.

We will recess to 2:15.

The committee recessed at 12:40 o'clock, p.m.

(Tape H-1742 follows)

APPEARANCES

Committee members: J.N. Allan
J.E. Bullbrook
I. Deans
M. Gaunt
L.C. Henderson
R.G. Hodgson
W. Hodgson
J.P. MacBeth (Chairman)
W. Newman
J.A. Renwick
G.W. Walker

Clerk of the committee: Paul Moore

Committee counsel: R.E. Shibley, QC

Assistant to committee counsel: J.P. Beil

Ontario Hydro counsel: Pierre Genest, QC
James McCallum, QC

Canada Square counsel: Douglas Laidlaw, QC
Blair Cowper-Smith
G.D. Finlayson, QC

Campbell, Godfrey & Lewtas
and representing Mr. Moog J.A. Bradshaw

Representing Mr. Bradshaw Claude Thomson

Member, Legislative Assembly
of Ontario:

Vernon M. Singer

INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Page</u>	<u>Description</u>
199.	1740-1	Letter - April 25, 1973 - G.E. Gathercole to Hon. W.G. Davis re Hydro head office contract

1542-1782

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Tuesday, August 7, 1973

Afternoon session



August 6, 1973
2.20-2.25 p.m.
M.F.

H - 1742 - 1

LEGISLATURE OF ONTARIO
SELECT COMMITTEE - HYDRO HEADQUARTERS

The committee resumed at 2.20 p.m. in the members' board room.

Mr. Chairman: ~~Mr. Chairman~~ Ladies and gentlemen, I call the meeting back to order. Mr. Shibley, I understand you don't have any additional questions of Mr. Singer?

We had better just wait a minute, I hear the clerk calling order.

Mr. Renwick: Mr. Chairman, I have a couple of questions of ~~Mr. Renwick~~

Mr. Chairman: Mr. Henderson and then yourself, Mr. Renwick. I just want to wait a minute to let the clerk get everybody in.

~~Mr. Renwick~~
Ladies and gentlemen, I have called the meeting to order and I would ask Mr. Henderson to proceed.

Mr. Henderson: Thank you, Mr. Chairman. Mr. Singer, over the past 10 years you and I have been very close in the Legislature. I have respected everything you have done and I do reserve the right to be the opposite politics to you, but ~~I want~~

Mr. Renwick: With certain distant exceptions.

Mr. Henderson: That is right.

Mr. ~~Chairman~~ Chairman: Those are the questions you have got to watch out for, Mr. Singer.

Mr. Henderson: But I do have two questions and I wrote them out this morning during the hearing and I feel for both you and I that we should have them. Mind you, I believe you have answered these in legal terms but not to the layman.

Did Mr. Moog ever suggest to you that any retainer would interfere or limit your debate in the Ontario Legislature or out of the Legislature?

Mr. Singer: No, sir, never in any way.

H - 1742 - 2

Mr. Henderson: All right then, following that question and I had hopes that would be the answer, Mr. Singer; I knew it would be, knowing you as I do, I knew it would be.

In other words, as far as Mr. Moog is concerned ^{and} his dealing with you, ~~he has always acted properly and dealt with you as a client to his solicitor?~~ he has always acted properly and dealt with you as a client to his solicitor?

Mr. Singer: That has been the sole extent of our relationship.

Mr. Henderson: And never indicated to you that he needs you as a provincial member or a member of the opposition - and then I have put the nasty word in - no suggestion of bribery whatsoever? None?

Mr. Singer: Never in any way.

Mr. Henderson: Very good and I congratulate you, Mr.

~~on that answer.~~ on that answer. I am very proud of you.

Mr. Chairman: Mr. Renwick?

Mr. Renwick: Well I must say I don't know what Mr. Singer's answers are going to be to my questions.

Mr. Bullbrook: I hope they're relevant.

Mr. Deans: The answer ~~or~~ or the questions?

Mr. Bullbrook: The questions.

Mr. Renwick: Mr. Singer, I take it that at the meeting with you and Mr. Moog on August 23rd ~~that~~ there was no discussion of amount but that it was quite clear from your opening statement that the question of the retainer was discussed and was to be formalized at a later date. Would that be correct?

Mr. Singer: Approximately, because at that point you may remember that whether or not I accepted the retainer in any way depended on my ability to rearrange the date of the OMB hearing, and I indicated to him that if that date was a fixed date, the 22nd of September, that I wasn't going to be in Toronto at that point and there was no way that I could act and he would then have to get somebody else.

August 6, 1973
2:20-2:25 p.m.

H - 1742 - 3

Mr. Renwick: But I take it - what I am really asking, Mr. Singer, is that in your opening statement you relate the two matters that are specific matters you wanted to deal with, "the matter of current legal retainer I have with Mr. Gerhard Moog which commenced on August 23, 1972" - and from your evidence I take it that Mr. Moog discussed with you and indicated quite clearly to you that he wished to retain you for the purposes of this on-going retainer at that time and that you indicated that you would give consideration to it and the matter was then not raised again until November?

Mr. Singer: That's right, but it all was contingent upon my embarking on it, because in view of what ~~was~~^{is} then the urgency it would have appeared to me - whether this ~~was~~ in Mr. Moog's mind or not I don't know - it ~~certainly~~ would have appeared to me that it would be quite pointless to have me on retainer if I couldn't get to that OMB hearing, that he would then be in a position - that OMB hearing was fixed for the 22nd - that he would then have been in the position of having to retain somebody else. Whether he would have come back to me afterward if I hadn't ~~been~~ taken it on at that time, I don't know. It would have occurred to me that it probably would have been pointless, that he would have had to have gone out at that point in time, retain somebody else, who probably then would have been in the same general position.

Mr. Renwick: But what I wanted to clear up was that it came through to me - and perhaps I haven't been too clear about it - that the question of that proceeding which was ultimately resolved at January 30 or the 31st of 1973, and for which you were paid a fee of, as I understand it, \$3,000 -----

Mr. Singer: That's right.

Mr. Renwick: ~~That~~ ^{That} really in substance that was inter-related to, but was separate from, this general retainer discussion, and I took ~~your~~ your opening statement in the light of your

August 6, 1973
2.20-2.25 p.m.
M.F.

H - 1742 - 4

(Mr. Renwick)

evidence to refer, when you speak about current legal retainer, to the on-going retainer which you presently have?

Mr. Singer: I have difficulty, Mr. Renwick, in separating these into two distinct portions.

Mr. Renwick: As clearly as that?

Mr. Singer: Yes. Because, as I was trying to explain to Mr. Shibley, and perhaps I didn't make myself too clear, once I got at the thrust of the ratepayers' thinking it was obvious that it really didn't relate to the separation of building one from building two. I~t was directed - and this had to be in Mr. Moog's mind - it was directed to the use of the whole block. They were intertwined; that was why the ratepayers put forward a very cleverly conceived argument - let's do it by plan of subdivision, and ~~now~~ if they had achieved that point, then we were in a position, in an entirely different position, where we had to go back and bargain and argue and so on, and that is how the two things meld in together and they are really inseparable.

Tape H - 1743 follows

(Mr. Singer)

~~12-11-72 12:11 PM~~
~~12-11-72 12:11 PM~~
Mr. Renwick: Then, Mr. Chairman, the other area that I'd like to ask Mr. Singer about relates ^{to} the time question; the time at which you had the discussions with Mr. Manthorpe of The Globe and Mail and Mr. Dow of the Star, or that they called you to speak to you about it.

Mr. Singer: They did, they did.

Mr. Renwick:—And which you're having difficulty in pinpointing. But my note shows that those calls, both of them within a reasonably—

Mr. Singer: Within a few days of each other, as I recall. I think Mr. Dow's came first.

Mr. Renwick: Within a few days of each other, were calls to you before any press report or questions were raised in the House.

Mr. Singer: That's correct.

Mr. Renwick: Mr. Chairman, I would ask if Exhibit 109 could be shown to Mr. Singer. ~~And~~ Exhibit 109, Mr. Singer, is obviously the editorial in The Globe and Mail on November 6, 1972, and knowing you as I do, ~~that~~ you would ~~be~~ be aware of that.

Mr. Singer: I would be aware of that, yes.

Mr. Renwick: So, I take it then, in an endeavour to establish the time at which ~~Mr. Dow~~ and Mr. Dow, and you said Mr. Dow's call preceded, to your recollection, Mr. Manthorpe's call, preceded the ~~preceded~~ date of November 6th—

Mr. Singer: That would be my best recollection, yes.

Mr. Renwick: May I just tell you what date that was? November 6th, ~~and on~~ Monday, and presumably this editorial would also appear in the ~~late~~ first edition of The Globe out on Sunday night, the 5th.

Mr. Singer: I'll tell you why this is my recollection. I was surprised that this kind of inquiry was being made because it has been my experience, during the time I've been in the Legislature, that where something like this is being bruited about I get to hear

about it, and I hadn't heard any questions about it at the time I spoke either to Dow or to Manthorpe.

Mr. Renwick: But from the point of view of chronology, your calls from Mr. Dow and Mr. Manthorpe would precede this editorial and you, in all likelihood, read this editorial and

Mr. Renwick: Could I ask, Mr. Chairman, that Mr. Singer

be shown Exhibit 110. And, while he's being shown that, I take it that your first discussion in November with Mr. Moog, ~~which was~~ which led to the establishment in agreeable terms of the retainer, took place in those early days of November.

Mr. Singer: As I told Mr. Shibley, some time early up to the middle of November; I can't fix it with any more exactness than that.

Mr. Renwick: I had it that the first discussion took place early November, and the second discussion mid-November.

Mr. Singer: A few days later, yes. I can't say with any degree of positiveness that one was on the 2nd of November and the other was on the 5th of November because I just don't know. The closest I can come is from the early part of November to the middle part of November for both of those conversations.

Mr. Renwick: Exhibit 110 is a story which appeared in the Toronto Star on Tuesday, November 14, and refers to [redacted]

Robert Nixon charged yesterday" (which would be Monday the 13th),
and there's a reference in the second column, presumably a quotation
from what Mr. Nixon said about the suspension of Hydro's decision
to build the new headquarters.

Again I take it that Mr. Manthorpe² and Mr. Dow's call⁵ to you preceded the November 6 period. My question relates to, *were you aware of this

(Tape H-1744 follows)

H-1744-1.

August 7, 1973
2:30 - 2:35 p.m.
B.G.

(Mr. Renwick)

~~...call to you preceded the November 6th period, and my question~~
~~relates to, are you aware of this~~ particular announcement by
the leader of your Party and how does it relate, if you can
recall, to your discussions with Mr. Moog at the meeting at
which you settled the retainer?

Mr. Singer: Well, I know that Mr. Nixon what, in
the years 1968-69, somewhere 1967-68-69, was after Mr. Robarts
about the decision to construct a new Hydro building. Mr.
Robarts had said something about plans along those lines, and
Mr. Nixon had indicated in the Legislature that he didn't think
there should be an elaborate building in Toronto. ^{Under} Mr. Robarts
was the building was never proceeded with.

Mr. Renwick: We had that evidence which indicates
that Robarts affected the postponement.

Mr. Singer: Yes, and this clipping that I am looking
at is sort of a follow-up on this. As I gather there was a
decision to go ahead with a building and Mr. Nixon, at this
point probably ~~mentioned~~ mentioned to me that he was continuing
along the same frame of thinking and was unhappy with the thought
that a ^{Hydro} building should be built. I think his suggestion was
that the time had come for decentralization and that head office
buildings should be built in other parts of the province and
this was sort of a continuance of that theme that he had
developed over a period of several years.

Mr. Renwick: But I do take it that the November 14
was ^{this} article in the Toronto Star, coupled with the Leader
of the Liberal Party's statement of the day previous, was about
the time which related to the ^{second} meeting which you had ^{with} Mr. Moog
~~to the second meeting~~ to settle the question of the retainer.

Mr. Singer: Yes, it could well have been. It could
well have been. Looking at this, I note that the objection
seems to be ~~to~~ to the principle of ~~was~~ building it; ~~was~~ there

August 7, 1973
2:30 - 2:35 p.m.
B.G.

H-1744-2

(Mr. Singer)

is no discussion of terms or contract, or to whom or to anything else.
And, I didn't know it --

Mr. Renwick: But it was known well, I am not saying that
you knew it, but we know and --

Mr. Singer: Right.

Mr. Renwick: -- it was publicly known that Canada Square had --

Mr. Singer: I think had Mr. Nixon known it, and I may be
putting words in his mouth, at the point of time he either gave this
press ~~was~~ release or gave this information to the press which resulted
in this article, that he would have said, made reference to it at that
point in time.

Mr. Renwick: But, Mr. Singer, the editorial of November 6th
in the Globe & Mail specifically refers in the opening lines to "a new
Ontario Hydro headquarters is to be built by Canada Square Ltd. --"

Mr. Singer: All right, Yes, all right, you are quite right.

Mr. Renwick: -- and presumably the reference in Mr. Nixon's
statement was to that.

Mr. Singer: Yes, well then, perhaps not what I should have
said, but perhaps what was going through my mind was had it been in
Mr. Nixon's mind at that time that there was any question about the
details of the awarding of the contract, he would have zeroed in on
it by the time he gave that interview. What he was objecting to at
that point, which was consistent in his stance over several years,
was he didn't think that that much money should be spent on a new
head office building in Toronto.

Mr. Renwick: Mr. Singer, ~~was~~ we did you have any knowledge
prior to Mr. Shibley getting in touch with you, that there were any
rumours around with respect to your retainer? Because as I take it,
your discussions took place between you and Mr. Moor --

Mr. Singer: Yes.

Mr. Renwick: -- on all occasions related to this retainer
were private discussions between you and him.

Mr. Singer: Oh, I thought it was generally known pretty
well to anyone who was interested. Certainly, it was known to --

H-1744-3

August 7, 1973
2:30 - 2:35 p.m.
B.G.

Mr. ~~Ed~~ Finlayson: Well, if I can be of some help to this,

in putting any element of mystery out of this that -

Mr. Renwick: Yes, we would be glad to -

Mr. ^FFinlayson:-- on the first meeting that I and Mr. Moog

had with Mr. Shibley, we at ~~at~~ that time disclosed the ~~the~~

(Tape H-1745 follows)

August 7, 1973
2.35 - 2.40 p.m.
M.R.

(Mr. Finlayson)

~~Mr. Renwick: I am interested in the political donations that had~~
been made to Mr. Singer and Mr. Moog gave the explanation that he had made the very modest contribution that he had because Mr. Singer had acted as his lawyer on a number of occasions. That's what I told Mr. Shibley.

Mr. Renwick: That's not the point of my question. What I'm interested in is, were you aware before Mr. Shibley approached you about matters that had arisen because of the appearance of the exhibit 199 in the files of Canada Square which were available to Mr. Shibley? Did you have any knowledge that ~~there~~ your retainer and the amount of the retainer were a matter of rumour or ~~that~~

Mr. Singer: I had no knowledge ~~of~~ ^{that} the amount of the retainer was a matter of rumour. It came as no surprise to me at all that it was generally known, because as I say I had discussed it on the record with members of the press and the whole course of my retainer was to appear in public, before public bodies, before ratepayers, before councils, before the Municipal Board and so on. So it isn't the kind of thing that one could possibly keep secret even if one wanted to and the character of my stance in ~~these~~ ^{these} matters is that there is no secret attached to them.

Mr. Renwick: I can well understand that, but the very nature of your response would indicate to me that it was would be a matter of surprise to you that the quantum of the ^{retainer} ~~the~~

Mr. Singer: Yes, it was a matter of surprise to me.

Mr. Renwick: ~~It~~ appeared to be a matter of ~~fact~~

Mr. Singer: Yes.

Mr. Renwick: ~~It~~ some rumour prior to Mr. Shibley getting in to touch with you.

Mr. Singer: Yes, that was a matter of surprise to me.

August 7, 1973
2:35 - 2:40 p.m.
M.R.

Mr. Renwick: Thank you, Mr. Chairman.

Mr. Singer: And annoyance.

Mr. Renwick: I'm sure.

Mr. Chairman: Yes, Mr. Hodgson. Mr. Glen Hodgson.

Mr. R.G. Hodgson: Mr. Singer, a couple of points

just to clear my mind. When the newspaper reporters contacted you, was that contact the subject of discussion between you and Mr. Moog at the time that you firmed the retainer?

Or was it before or after, or was it that particular day?

I think I'm a little unclear on that.

Mr. Singer: Well, I'm unclear specifically. It certainly wasn't that particular day nor ~~we~~ could it have been, because that particular day Mr. Moog and I were in each other's presence and I'm not sure whether it was in my office or in his office.

R.G. Hodgson:
~~Mr. Renwick~~ Do you recall whether it was after?

Mr. Singer: I can distinctly recall that when I received these calls, or the first one of them, that I got a hold of him on the phone and said "I have had a call" or "The Star is inquiring" or "the Globe is inquiring, I thought you should know" and that was the point and I can remember that was a telephone call. So that it certainly wasn't the same day.

Mr. R.G. Hodgson: So it wasn't a matter of you discussing the telephone calls or the possible investigation at the same time as the retainer was made firm?

Mr. Singer: No. No. Definitely not. No way. I can distinctly recall calling him on the phone and ~~the three~~ the three times we discussed the retainers were in each other's presence. It wasn't by phone.

Mr. R.G. Hodgson: So that the calls would be after the firming of the retainer?

Mr. Singer: I'm not sure of that, Mr. Hodgson.

~~Mr. R.G. Hodgson:~~ Mr. R.G. Hodgson: But it wasn't part of the discussion?

August 7, 1973
2:35 - 2:40 p.m.
M.R.

Mr. Singer: No. No. My recollection is that it was before the firming.

Mr. R.G. Hodgson: Fine.

Mr. Singer: But I can't be sure. It certainly wasn't the same day or any one of those three days, either August 23, the early November date or the 2nd date because it was a phone call and not a personal interview we were having.

Mr. R.G. Hodgson: Without you recalling what sort of questions you posed in the House but if I recall properly you were one of the leading questioners of the government on the OISE contract and some of the events surrounding that in the House. Is that right?

Mr. Singer: Yes, that is quite correct.

Mr. R.G. Hodgson: Thank you.

Mr. Singer: And also in relation to a piece of land 200 feet wide, 200 feet square next to OISE, which bothered me a great deal at that time, ~~which still bothers~~ which still bothers me and I raised a lot of questions about that.

Mr. R.G. Hodgson: Thank you.

Mr. Chairman: Yes, Mr. Walker?

Mr. Walker: Mr. Singer, you've had quite a relationship now with Mr. Moog that dates back what - 13 years?

Mr. Singer: That's right.

Mr. Walker: As a - more particularly in the most recent years as a land developer - Mr. Moog being a land developer. In the initial ~~years~~ ^{instances} of course it was the ratepayers, you were on the other side of the shoe, so to speak. ~~which still bothers~~

Aug. 7/73
2:40-2:45 pm
PLG

(Mr. Walker)

Your dealings have involved you in the question of the Chiropractic college that was rezoned by Mr. Moog, the land rezoned and ultimately built and in the various phases of Yonge-Eglinton; and in fact, even to this day you are involved in those phases. Now, without violating any solicitor-client relationship, and I appreciate that we may be into some delicate areas, but I trust that ^{it's} something that you can handle in view of the fact that the whole question of your relationship with Mr. Moog has been brought before the committee. Can you give us some impression as to your impression of the integrity of this individual as a builder, his character, ~~what~~ kind of person are we dealing with? You are one of the individuals who knows him in a different light than many of the individuals who have appeared before this committee. I would be interested in having your comments, a short dissertation on how you found him in the past.

Mr. Chairman:

~~It came to Mr. Walker, that~~

that is a question that the committee should have to decide.

Mr. Walker: Well maybe, Mr. Chairman, but I feel that the whole question and character of Mr. Moog is at present an issue before this committee and here is an individual, one of the few who can shed some light on it from a different vantage point, and I for one would like to hear it.

Mr. Chairman: All right.

Mr. Singer: My ~~relationships~~ relationships with him have been exemplary. He is a determined man, a man who is always urgent about his problems and he has always told me all I need to know in relation to his problems. His direction has always been quite clear-cut. As a lawyer, Mr. Walker, you might share with me the difficulty that we sometimes have with clients who come in and say "I have got a problem" and it takes a long time to figure out what their ~~about~~ problem is. Mr. Moog always knew which direction he wanted to go and his instructions were quite explicit. He was very easy to deal with on the basis that

9Mr. Singer)

if I wanted more information, if we needed a planner, get a planner; ~~if you need more advice, get one~~ We never had any discussion acrimonious or otherwise about the amount of bills. When the work was done he was prepared to accept my ~~own~~ view. My relationship with him has been a very good one, and I was willing to accept the kind of pressure that he is prepared to put on me because the work was interesting and productive, I think, to both he and I. I would have no hesitancy dealing with him again and this is why I continue to accept retainers in matters about which I am knowledgeable.

Mr. Walker: What about his ability as a builder?

Mr. Singer: Well I would...

Mr. Walker: The parts that you have seen.

Mr. Singer: Yes. I don't know directly, because I have never negotiated any of his building contracts, but I would think the fact that he has been a very successful man would indicate to me that he must be a good builder. He has dealt with a variety of people to my knowledge, and he continues on in the building business or the development business, apparently quite successfully, and I don't think that he would be having continued success unless he was a good builder.

I have seen many builders who just sort of fall by the wayside because they are shoddy or they can't deal properly with a variety of people. None of this has ever arisen in my mind or factually in my relationships with him.

Mr. Walker: Well, just to cancel out one area in my mind, yours has been a strictly legal relationship with him.

Mr. Singer: That's right.

Mr. Walker: And I assume you have taken no trips to Swiss banks or anything of that sort.

Mr. Singer: No sir, I have never been in a Swiss bank.

Mr. Walker: No other trips or anything of that nature?

Mr. Singer: I think I may have been at his ~~own~~ home and had coffee with him while we discussed business, but we have never socialized together. Our ~~social~~ meetings have been always

Aug. 7/73
2:40-2:45 pm
PLG

(Mr. Singer)

on a business level.

Mr. Walker: I am glad that area is cleared up. Thank you, Mr. Singer.

Mr. Chairman: Mr. Deans?

Mr. Deans: Thank you, Mr. Singer, ^tthe bill which you submitted on January 2, for what period was that?

Mr. Singer: Well, that is hard to delineate, Mr. Deans. What I was saying was that it covered to some extent the first phase, the land division -- you are talking about the \$3,000 bill?

Mr. Deans: No. I am talking about the \$6250.

Mr. Singer: Oh. That was an on-going period in advance. The first quarterly payment in advance from ~~January~~^{July} to April, yes.

Mr. Deans: Now, I want to understand then, that the way in which your bills are rendered, ~~it did not include that~~

~~the first quarterly payment in advance from July to April, yes.~~

Tape H 1747 follows

August 7th, 1973

2.45 - 2.50 pm

H 1747 - 1

AA

(Mr. Deans)

~~that~~ that include - that ~~\$6,250~~ ^{\$6,250} - did that include the work that you had done on the first phase of that ~~work~~

Mr. Singer: No, it didn't include it, but it reflected it, as I said earlier in my ~~other~~ ^{and} - that I had tempered the other bill because of that.

Mr. Deans: I see. That's what I didn't quite understand. Could I ask you in regard to the time period when you had become aware of the press's interest in the Hydro-building? You say you spoke to Mr. Moog over the telephone upon becoming aware of it. Now, just so I am clear about this, you do believe that you ~~were~~ were made aware of the press's interest prior to the time that those ^{two} exhibits that you were given ~~work~~

Mr. Singer: ^{any} There is no doubt in my mind that it is prior to that time. ^{Yes.}

^{It was prior to that time.}
Mr. Deans: At that time ~~work~~

Mr. Singer: I can't fix it any closer to the point of time. As I say, I did speak ^{with} ~~the~~ Mr. Manthorpe in this room this morning and asked him. He recalled the ~~conversation~~ conversation and ~~he~~ can't fix it in his mind. Now, whether Mr. Daw's memory is any better, I don't know.

^{That's true.}
Mr. Deans: Did you discuss the matter of the press interest with anyone other than Mr. Moog?

Mr. Singer: I think I probably mentioned it to Mr. Nixon or to other of my colleagues.

Mr. Deans: At the time that you mentioned it to Mr. Moog, was that the period when he suggested to you that you might like to take a look at the documentation because he felt it was ~~work~~

Mr. Singer: Yes, at that time.

Mr. Deans: And you stated that you personally didn't feel that that was in the best interests of either of you. ^{He didn't want to do that -}

Mr. Singer: I thought it was - yes. He told

August 7th, 1973

2.45 - 2.50 pm

H 1747 -2]

AA

(Mr. Singer)

me something to the effect that in his opinion it was a good deal for Hydro and I said, "Well, that's fine. I have no interest in looking at your documents."

Mr. Deans: Did you acquire the documents for the purpose of having anyone else look at them?

Mr. Singer: No, sir. No, sir. I never saw those documents, nor did they ever come into my possession, nor were they ever funnelled through me. I had no connection with those documents in any way. I don't even know what they are.

Mr. Deans: So to this date you haven't seen the documents.

Mr. Singer: No sir.

Mr. Deans: A pregnant pause. I can't decide. I won't ask any more questions at the moment. I want to think about something.

Mr. W. Newman: Mr. Chairman, I think my question has been asked but I think, Mr. Singer, your first contact with Mr. Moog was when you were asking for a ratepayers' group. Was that your first, that contact?

Mr. Singer: That's right.

Mr. W. Newman: About 1960.

Mr. Singer: 1961, I think.

Mr. Newman: 1961.

Mr. Singer: March, 1961.

Mr. W. Newman: That you acted on ~~behalf~~ ^{behalf} and he,

you said quite obviously became the kind of the leader of the ratepayers' group.

Mr. Singer: That's right.

Mr. W. Newman: I assume that he was impressed with your ability and thus hired you to do other works for him.

Mr. Singer: Yes. Well, he came back to me

and .

August 7th, 1973

2.45 - 2.50 pm

H 1747 - 3

AA

(Mr. W. Newman)

Mr. W. Newman: So really this retainer that we are talking about is part of an ongoing process of good work well done.

Mr. Singer: Yes. Not regularly. It skips periods. But I don't know if this is of any help to you, Mr. Newman, he indicated to me at one time and I have no way of knowing that it is correct other than he told me and I believe him that when he had difficult land-use matters, he felt he has always called on me, except one he mentioned that he had in Windsor when he retained a lawyer in Windsor, Now that's what he told me and I believe him.

Mr. W. Newman: Thank you.

Mr. Chairman: Any other questions from members of the committee?

Mr. Bullbrook: Yes, I just want to

Mr. Chairman: Mr. Bullbrook.

Mr. Bullbrook: put ~~them~~ a couple of questions to my colleague. And I admit, sir, that they are somewhat self-serving, but I think, frankly that we should have a reiteration of the unequivocal statement made by Mr. Singer, and I want to read into the record again from Page five of your statement and it reads as follows: "If it is suggested

Mr. Singer: I know that nearly by heart, Mr. Bullbrook.

Mr. Bullbrook: I would imagine you do. "If it is suggested ~~that~~ that my professional relationship with Mr. Moog might have had the effect of stifling the Liberal party's concern about the facts surrounding the awarding of the Hydro contract, it must be noted that the matter was first raised and persisted in by my leader and pursued assiduously by he and several other of my Liberal colleagues, the end result of this criticism and questioning being this enquiry.

"When the letting of the Hydro contract first

August 7th, 1973

2.45 - 2.50 pm

H 1747 - 4

AA

(Mr. Bullbrook)

became a matter of public discussion, I advised my leader and my colleagues of my solicitor-client relationship with Mr. Moog and indicated to them what it involved. I have never attempted to influence them in regard to this matter or to suggest to them any line of procedure.

~~I want to say it to you, Mr. Moog, as soon as~~
~~if you would agree that having received to your own~~
~~personality~~

H 1748 - 1 follows

(Mr. Bullbrook)

I want to put it to you, Mr. Singer, to see if you would agree, that having regard to your own personality and ⁵ ~~vent~~, that when you do have influence to bring to bear upon your colleagues within the Liberal Party, that they are fully aware of the fact that you are bringing such influence to bear.

Mr. Singer: Well, I've not often been a very quiet person either inside caucus or in the Legislature, and I don't think that anyone who has served with me within the Liberal Party would have very much doubt about that. And had I been trying to make a point, that kind of a point or any other point, I am sure my colleagues would have been aware of it. Whether or not they'd have agreed with me would be a different thing, but they certainly would have been aware of it.

Mr. Bullbrook: I was going to say it might have been unusual. ~~having~~ ^{I think} agreed with you, but I won't say that.

Mr. Singer: ~~I~~ ^{I think} want to know everything that goes on in our caucus, but I'll tell you of the trouble you've caused.

Mr. Bullbrook: Yes. I recognize that we must keep this serious because of the fact there should be no misunderstanding about ~~this~~ this question. I want to put it to you, Sir, do you agree with me that notwithstanding your lengthy solicitor-client relationship with Mr. MOog and his companies, that you have never at any time attempted to influence your Liberal colleagues with respect to any dealings that he might have with the Government of Ontario or any of its emanations?

Mr. Singer: That's absolutely correct.

Mr. Bullbrook: I want to put it to you, Sir, that notwithstanding the donation of \$50 given to your political campaign fund in 1970, that—

Mr. Singer: & 1971.

Bullbrook:

Mr. Singer: I'm sorry, in 1971, that you didn't permit that to influence you in any way in the pursuit of your legislative responsibilities, and, in particular, with fettering, or restricting or unduly influencing in any way your Liberal colleagues?

Mr. Singer: The influence that had on me was to produce several unhappy growls, and it certainly didn't influence me one way or the other.

Mr. Bullbrook: Thank you very much.

Mr. Chairman: Any other member of the committee have any questions? I think Mr. Shibley has one or two as a result of these questions.

Finlayson:

Mr. Shibley: Before Mr. Shibley asks another question, I would ask you, Mr. Chairman, if I could clear up one thing with the witness, and I'll just put the proposition, Mr. Chairman, and then you can rule on it. But, it's been pointed out that Mr. Moog was a member of this ratepayers' association with respect to the Sunnydene Subdivision. It hasn't been made completely clear that Mr. Moog's residence is in this particular subdivision.

Mr. Renwick: We had understood that.

Mr. Shibley: I mentioned that.

Mr. Finlayson: Oh, I'm sorry.

Mr. Singer: And overlooks the site.

Mr. Finlayson: Yes, and that this proposed development by Cadillac would have been right across the ravine from him.

Mr. Singer: That's right. And ~~he~~ had looked at it out of his back window.

Mr. Finlayson:

Mr. Finlayson: That's right. Thanking very much, Mr. Chairman.

Mr. Shibley: I just want to clear up one thing, Mr. Singer. How soon after Mr. Dow spoke to you, did you telephone Mr. Moog to tell him that the press had been in touch with you?

Mr. Singer: Oh, I would think reasonably quickly, perhaps the same day, perhaps the following day.

Mr. Shibley: And then you mentioned that Mr. Manthorpe had called you after Mr. Dow. Did you call Mr. Moog again on that occasion?

Mr. Singer: I can't specifically recall whether I made two telephone calls to him or one. My best recollection would be that I passed this on to him after the first phone call and probably made a second one.

Mr. Shibley: And, if you made the second call, would it likewise have been made immediately after the—

Mr. Singer: Yes, immediately after I had the inquiry.

Mr. Deans: I do want to ask another question related to that. I want you to think for a moment, Mr. Singer. Did you discuss the telephone calls from the reporters with anyone other than Mr. Nixon and Mr. Moog?

Mr. Singer: I may have mentioned it to some of my colleagues. I can't specifically recall.

Mr. Deans: Was the Legislature sitting at the time? Can you recall?

Mr. Singer: I don't remember; I don't think so, but I don't remember. It wasn't of that great moment to me, Mr. Deans, because I knew nothing about the details of Hydro and—that was phase one—and the second phase was, I didn't think ~~that~~ it was any secret that I was retained by Mr. Moog. I didn't see how it could possibly be any secret.

Mr. Deans: No, no, no. I'm not concerned about ~~on~~ your relationship with Mr. Moog at the moment, but rather ~~I'm trying to~~
~~piece together where the information all came from~~

(Tape H-1749 follows)

August 6, 1973
2.55-3.00 p.m.
M. P.

H - 1749 - 1

(Mr. Deans)

I am trying to piece together where the information all came from in regard to the investigation by the press.

Mr. Singer: Oh well, all right, there -----

Mr. Deans: And obviously now you were aware of it, in ~~add~~ addition to a number of other people.

Mr. Singer: Well, let me elaborate on that. Once I had told both Mr. Dow and Mr. Manthorpe of my relationship, I got the distinct impression that if they had any information, or any stories had come to them, that they were no longer of any mood to discuss it with me, ^{nor} did they, which I think was quite natural if they were off on a kind of investigation which I imagined they would be. Once I had clearly stated to them what my position was, I think that they would not have been ^{the} capable newspaper men that I think they both are ~~to~~ to then say, "Well, this is what we heard, and do you know if it is true or not?" The conversations, once I had stated my position, ended quite quickly.

Mr. Deans: What I was thinking about, Mr. ~~Singer~~ Singer, was that whether or not - I'll tell you what is in my mind - whether or not you can recall discussing with anyone else in the building the fact that there is an investigation going on in the press in regard to the Hydro building?

Mr. Singer: I may or may not have. I can't honestly recall. I can recall mentioning it to Mr. Moog, I can recall mentioning it to Mr. Nixon; I think I mentioned it to Mr. Bullbrook, and I may have talked to one or two other of my colleagues about it. Beyond that, I don't know anyone else in the building. I didn't seek you out, or any of the Conservatives out, to relate this, nor did I seek anyone out from Hydro saying "What are you up to?" or that sort of thing.

I had no information really from either of those gentlemen, other than they were looking for something and I didn't

August 6, 1973
2.55-3.00 p.m.
M.F.

1749-2
H - ~~XXXXXXXXXX~~

(Mr. Singer)

even know what they were looking for. They didn't discuss with me what they were looking for.

Mr. Deans: Weren't you -----

Mr. Singer: Was I puzzled? That is a ~~good question~~ *always possible,*

Mr. Deans: As I know you over the years, I would imagine that you were a bit intrigued by the fact that the newspaper people were now looking *into the deal.* ~~xxxxxx~~ ^

Mr. Singer: I was intrigued, but as I say, those conversations pretty well came to a quick conclusion once I said "I am retained by him" and I told them very briefly what it was, where the site was, and what kind of work I had undertaken.

Mr. Chairman: Thank you very much, Mr. Singer, for being present and giving us such straightforward evidence so willingly. Thank you, sir.

Mr. Singer: Thank you.

Mr. Chairman: Mr. Robert Nixon?

~~ROBERT FLETCHER NIXON, xxxxxx~~

Mr. Renwick: Mr. Chairman, I am always delighted to hear the leader of the Liberal Party. I have been guided throughout by the question of the relevance of the evidence which is going to come before us as indicated by counsel for the committee, and I would like to make certain that what we are about to hear is relevant to this committee, as well as being relevant to the leader of the Liberal Party.

Mr. R. G. Hodgson: Are you his solicitor?

Mr. Renwick: Um?

Mr. R. G. Hodgson: Are you taking on the job of his solicitor?

Mr. Renwick: No, I am asking counsel for the committee whether or not Mr. Nixon's evidence is within the framework of relevance for this committee.

H - 1749 - 2

Mr. Chairman: Mr. Shibley?

Mr. Henderson: We'll accept that it is relevant.

Mr. Bullbrook: Is he your counsel?

Mr. Shibley: I am going to frame that page of Hansard.

Mr. Renwick, I assure you that I never lead evidence that I do
not consider relevant, and to have ^{probative} ~~practical~~ value.

Mr. Finlayson: Is that the end of the explanation?

Mr. Renwick: Mr. Chairman, thank you very much. With great respect to the Leader of the Liberal Party, he is another citizen of the province of Ontario and I wouldn't want anyone feeling that they would just simply walk in here and be heard by the committee.

Mr. Chairman: I don't know that we have refused anybody yet, Mr. Renwick.

Mr. Renwick: Unless even within Mr. Finlayson's view of relevance the matter was relevant to the ^{affairs of the} committee.

Mr. W. Hodgson: If we keep going long enough we will hear them all.

Mr. Renwick: On that basis, I am looking forward to hearing Mr. Nixon under oath.

Mr. Chairman: Welcome, Mr. Nixon.

ROBERT FLETCHER NIXON, sworn.

Mr. Shibley: Mr. Nixon, you are the leader of the
Liberal Party in the province of Ontario.

Tape H - 1750 follows

Mr. Shibley?

Mr. Nixon, you are the Leader of the Liberal party in the province of Ontario and hold that post as Opposition leader in the Ontario Legislature. Is that correct?

Mr. R. F. Nixon: Yes.

Mr. Shibley: On December 1, 1972, you tabled in the Legislature a series of questions referable to the manner in which Ontario Hydro let the contract to Canada Square for its new head office building, and those questions are being produced to you at this time. I ask you first that you indicate to this committee what led up to your tabling those questions in the House.

Mr. R. F. Nixon: My interest in the concept of the new head office, situated in downtown Toronto basically, you have already heard the testimony from Mr. Singer that I had in my capacity as Leader of the Opposition and as member for Brant, objected to the decision when it was originally made in 1968, and heartily approved the decision made by the then Premier, to if not ~~cancel~~ cancel it, at least postpone the concept to build the building I think that is the exhibit on my right, just before the witness box. The reason given at that time was the economic conditions in the province would not warrant it, but I also felt that there was a considerable agreement with a view that I had expressed, that Ontario Hydro, if it needed a new head office, and that was a decision undoubtedly that they should make, should not be given the go-ahead by the government to build it at the corner of College and University. I felt that the idea of disseminating the government facilities was one that had some validity. Then when the announcement was made in the summer of 1972 that Hydro was going ahead, of course my interest was rekindled. I did some investigation on my own to see just what the different economic situation was. I couldn't see that it was dramatically different. They were going to proceed on the same location and it appeared then that ~~although~~ although as I gathered from the time there was some question about it

Aug. 7/73
3:00-3:05 pm
PLG

(Mr. R. F. Nixon)

~~that~~ they were going to proceed on a lease-purchase basis, and that the plan for the building was not the pyramidal one that had been established to begin with.

At that time I made a statement myself. I believe it was just a press release reiterating my rejection of the government's ~~own~~ view, or the view of Ontario Hydro that the headquarters should be located in the heart of downtown Toronto. I made reference at the time to the problems which were well-known, about the transportation in the core of the city and so on, and I felt that my objections were even more valid than they had been when they had been expressed some years before. There was no reaction from anybody on that matter, however, but when the House convened, I did ask a series of questions, and I ~~must~~ should be frank that some of my attitude had been prompted by what has come to be ~~the~~ known as the "Fidnam affair," where another agency of government had decided to build a very large prepossessing building in the heart of downtown Toronto and that there were certain similarities there which I felt at least would bear some questioning and examination, which I then undertook to do.

I felt basically that the decision to locate the head office in Toronto was bad and that was why I said that the government ought to ~~at~~ at least suspend the decision, pending some further investigation. My real reason at the time was ~~the~~ based on the fact that I should do everything I could to stop the building where it was and have the decision to locate it elsewhere taken. To make as full an answer as I can at this time, for a number of years I was education critic of the Liberal caucus and had been very interested in educational research per se, and had often urged the then Minister of Education that we should be doing more. Whether it was at my urging or not, when the then Minister of Education, the present Premier decided to go in for educational research, he did so in a big way and I became one of the critics, if not the major critic, of the decision to build the Ontario Institute for →

August 7, 1973
3:05 - 3:10 p.m.
B.G.

(Mr. R.F. Nixon)

~~Studies in Education~~ Once again, where it was located and also perhaps sort of the stupendous aspects of our commitment. There was no particular reference to the builder at all, at that time, but of course it did strike my attention that the same builder was being retained by ~~the~~ Ontario Hydro to build this building, with the idea apparently, ^{from} some of the testimony you've heard, that an edifice would be erected consonant with the corporate image of Ontario Hydro.

If I may say on a personal note, this is the very thing about Hydro which I, over the years, have found to be, if not offensive, at least extremely questionable.

There were some questions asked in the HOuse; ^t where has been reference already made to them, that is oral questions or oral comments. There were enquiries by the reporters that have been mentioned already; ^{often}, the enquiry saying, you know, "Have you any information on this," and my response would be, "No, other than what I have read in your newspapers. Have you any more information?" It was sort of a self-feeding kind of a thing, I suppose. But my interest in this was well known, and there was no particular response from government, and I felt then the time had come to formally put questions on the order paper, which I did December 1, 1972, and the Premier tabled the answers on the last day of the session, before the adjournment. ~~on December 14th~~, I believe on December 14th, ~~and I believe~~ when I read the answers, they of course contained the information pertaining to the contract which was a large compendium of material which I, for one, was not competent to winnow through with any degree of important understanding.

Mr. Shibley: Before you go on, Mr. Nixon, I would like to go back for a moment. Had you received communication of any kind from members of the press during the early part of November 1972?

Mr. R.F. Nixon: I spoke to Mr. Dow and Mr. Manthorpe probably on a much similar basis to the communications that Mr.

August 7, 1973
3:05 - 3:10 p.m.
B.G.

(Mr. R.F. Nixon)

Singer has already testified to. I think I spoke to Mr. Dow only on the telephone, I am ~~sure~~ sure of that; and Mr. Manthorpe, who is in our own press gallery, I saw quite regularly. I think I discussed the matter with him probably on two or three occasions. I definitely had the impression that both the Star and the Globe were specifically interested in the decision to go ahead with the new head office, its location, the decision to decide that Canada Square would be the builder.

I should also say that one of the aspects, I perhaps should have mentioned this a few moments ago, that concern^{ed} me was that government agencies were still going forward with major undertakings involving the expenditure of large sums of ~~some~~ public money, or as in the case of Hydro, monies associated with public responsibility, without a full and easily understood tendering method. Perhaps in our further discussion ~~about~~ about that.

Mr. Shibley: ~~Can~~ I don't want to leave yet the subject of the conversations you had with members of the press. ~~Can~~ you first help me as to the time when Mr. Dow was in communication with you in the month of ~~November~~ November, 1971.

Mr. R.F. Nixon: I can't say for sure, it might have, I can't really recall when the Legislature ~~went~~ went into session that ~~year~~ year. There might be somebody who can remember more specifically.

Mr. GAunt: I think it was the 21st of November.

Mr. R.F. Nixon: WAS it? Because it was late and that was the first occasion then on which questions could be asked, although a politician can make statements at any time he chooses, the problem is to get anybody to pay attention to them, But it could very well have been, well, my recollection is similar to Mr. Singer's, some time in late October and early November, is when --

Mr. Shibley: When you got ^{a call from} ~~talked to~~ Dow.

Mr. R.F. Nixon: Yes.

H-1751-3

August 7, 1973
3:05 - 3:10 p.m.
B.G.

Mr. Shibley: And similarly with Mr. Manthorpe, did his communications with you commence during -

Mr. R.F. Nixon: I can't recall which was first, my feeling is that they were almost simultaneous.

Mr. Shibley: So that the time of commencement of these press communications with you was late October or early November.

Mr. R.F. Nixon: As far as I can recall, yes.

Mr. Shibley: Yes, and were you anticipating throughout the month of November that there would be a press story?

~~As far as I know, I had the impression that both the~~
~~newspapers at that time had some kind of a story.~~

(Tape H-1752 follows)

August 7th, 1973

3.10 - 3.15 pm

H 1752 - 1

AA

(Mr. Nixon)

Mr. Nixon: I had the impression that both the newspapers thought that they had some substantial ~~story~~ ^{story} and I didn't know when it was going to come forward. I can't really answer the question more specifically than that. I know that I was looking forward to getting some further information when the Legislature convened, and I could put it to the ministers and the Premier.

Mr. Shibley: Mr. Nixon, I'll put it to you another ~~way~~ way. Had you been expecting that one or other or both of the Toronto Star and the Globe and Mail would do a ~~story~~ story during the month of November, 1972, referable to the Hydro head office building?

Mr. Nixon: I expected the stories in both newspapers, but I can't say I expected them in November. It may ~~as~~ well have been. I do recall that after the Premier tabled the answers to the questions - that was December 14th - I expected some further stories after that time which were not forthcoming.

Mr. Shibley: Well, was it any part of the decision that you took to table your questions that ~~as~~ ^{as} ~~there~~ ^{as} hadn't been a press story in the month of November, you decided to go ahead and table your questions on December 1?

Mr. Nixon: I would say it would have been a part of my decision to go ahead with the questions.

Mr. Shibley: Yes. There hadn't been a press story ^{as} expected and you went ahead with your questions?

Mr. Nixon: That's right.

Mr. Shibley: Now then, I think ~~we are~~ ^{you are} going on to mention that the answers were tabled on the 14th of December, which was the last day of the sittings of the House, and the matter was not raised again, I believe, by you, until March 26th of 1973. Would you ~~please~~ please explain for the record, I am

August 7th, 1973

3.10 - 3.15 pm

H 1752 - 2

AA

(Mr. Shibley)

sure the members understand, what happened in the interval that caused that lapse?

Mr. Nixon: Well, ~~when~~ when I think of the answers to the questions, there were two areas that I wanted to pursue further. One was quite time-consuming and that was an examination of the contract and I asked a person on my staff to undertake that as carefully as he could, and getting whatever help is available through the facilities of my office and in the community so to do, and make some kind of an assessment as best as we possibly could as to the meaning of the rather involved contract clauses.

The other had to do with a statement that I think was a part of the answer, and that was that it was associated with what companies were asked to participate in the proposals, and one of the ~~sections~~ sections in the criteria was that the company, it was expected, would have had similar experience with the government in the past.

Mr. Shibley: I may assist you, Mr. Nixon, because I intend to have it made an exhibit. There was a press release issued by your office, I believe, dated March 26th, 1973. Now, before I have it exhibited, I would like you to look at it and confirm that the content of this document was authorized for release by you.

Mr. Nixon: Yes, that's a news release from my office.

Mr. Shibley: May I have that made the next exhibit, Mr. Chairman.

Mr. Chairman: Mr. Nixon, you have ~~and~~ the honour of entering our 200th exhibit. Exhibit number 200.

Mr. Bullbrook: Mr. Shibley, I am just wondering - I am sorry to interrupt - if it might be of assistance to Mr. Nixon, have we exhibited Premier Davis's responses of December 14th?

August 7th, 1973

3.10 - 3.15 pm

H 1752 - 3

AA

(Mr. Shibley)

Mr. Shibley: It is a part of exhibit number two, I believe, and he has it right in front of him.

Mr. Bullbrook: All right. Fine.

Mr. Shibley: I just use the press release, Mr. Nixon, because I have read your comments in the House, in Hansard, and the press release seems to be a summary of the salient features of your comments in the House on that date. Can I be taken as correct in that conclusion?

~~Mr. Shibley: I just use the press release, Mr. Nixon, because I have read your comments in the House, in Hansard, and the press release seems to be a summary of the salient features of your comments in the House on that date. Can I be taken as correct in that conclusion?~~

H 1753 - 1 follows

August 7, 1973
3.15 - 3.20 p.m.
M.R.

(Mr. Shibley)

Mr. Nixon: That's the way it was designed.

Mr. Shibley: Yes. And the press release, of course, points up the circumstances surrounding Mr. Moog, the proposal method, whether cost was a criterion and, I think, makes mention of a variety of ~~items~~ ^{aspects}, as I say, that form the content of your statement in the House I think as part of the ~~debate~~ debate on the Speech from the Throne.

Mr. Nixon: That's right.

Mr. Shibley: Now, during the intervening period, of course, the House was not in sitting. Is that correct?

Mr. Nixon: That's right.

Mr. Shibley: And there were by-elections in process.

Mr. Nixon: That's correct.

Mr. Shibley: Can I take it that it was not considered the appropriate time by you to perpetuate your inquiries in the area of the letting of the Hydro building contract during that interim period of time, but rather it should wait until the House convened and it should be the subject of debate in the House?

Mr. Nixon: That's correct. I felt that the matter might be misconstrued if it were made the subject of simply a husting speech up in Huron County and that it should wait for the Legislature and I decided to handle it that way.

Mr. Shibley: Right. So that is, I gather, the explanation for the lapse, if I may call it, and bridges the period of time between the time you first raised it on December 1 and when you raised it again on March 26, 1973?

Mr. Nixon: Yes, I might say that ~~was that~~ I had some material prepared and thought of using it earlier and decided against it because of the by-election situation.

Mr. Shibley: Yes. Now, as part of Exhibit 200, is what appears to be a run-off of calculations on the second

August 7, 1973
3.15 - 3.20 p.m.
M.R.

(Mr. Shibley)

last page of that document.

Mr. Nixon: Right.

Mr. Shibley: ~~Now~~ I'm presuming, Mr. Nixon, that you didn't make these computations personally?

Mr. Nixon: That's correct.

Mr. Chairman: ~~Now~~ I don't know why you would make a presumption like that.

Mr. Nixon: That's correct.

Mr. Shibley: And it is, nevertheless, of some interest to some members of this ~~committee~~ ^{committee} I know, as to how these calculations came to be made and whether you wish to offer any comment on them to the committee?

Mr. Nixon: I should say that the contract itself, which we got in our hands after it was tabled by the Premier, was the subject of an examination by a member of my staff, who has a business background and business training. He, ~~now~~ in explaining its provision to me, indicated that the basis of his examination was on a basis of the cash flow that would be experienced by Canada Square over the period of the contract and he analysed the contract on that basis.

I made these figures available to the Legislature although I don't think they form a part of the Hansard record. I sent a copy of them over to the Premier and he, in a later address, undertook to examine them in some detail and according to him I had made some errors and according to others when he justified the contract he made some errors.

It might possibly be a lesson to both of us that in a contract that is of this great complexity you certainly do have to have a good deal of expert knowledge in order to analyse a contract which starts with a plot of land, probably one of the most valuable pieces of real estate in North America, which is leased by the owner to the developer for \$1.00, who then in turn uses the ~~access~~ ^{access} to that, an assured tenant, go out into the market, find the funds with which to build the

August 7, 1973
3.15 - 3.20 p.m.
M.R.

(Mr. Nixon)

building, the model of which is before us, and to work out the kind of contract with safeguards for both sides which over a period of 30 years will provide the kind of facilities in this case that Ontario Hydro evidently require and in the case of the developer a reasonable profit. I should say from the point of view of a politician the simplest explanation is that for 30 years Ontario Hydro will be paying Canada Square something between five and six million dollars, perhaps a bit more than six million dollars, ~~and~~

H-1754 to follow

August 7/73
3.20-3.25 p.m.
E.M.

H-1754-1

(Mr. Nixon)

~~between the two million dollars, perhaps a bit more~~
~~than the million dollars, \$6.1 million according to our~~
computations.

Mr. Genest: Excuse me, Mr. Chairman. Is this the purpose for calling Mr. Nixon before this committee, to get his views. ~~There is~~ I have a great respect for his views on matters political, as a matter of fact I happen to be a follower of his party, but I suggest with the greatest respect that this document first of all is demonstrably wrong in many places and what we are doing now is erecting it into a document that must be taken seriously. Surely that is not the purpose of calling this witness. I object to it most strenuously.

Mr. Chairman: That is not the purpose of calling this witness.

Mr. Genest: Well then let's get off the subject.

Mr. Chairman: Well now, I think some of us would like to hear how Mr. Nixon had arrived at these figures and I think it is important for some of us to know whether he still stands behind these figures or not.

Mr. Genest: He said he didn't prepare them himself. I would enjoy very much cross-examining the person who did, I think it is unfair to put Mr. Nixon in that position.

Mr. Chairman: Well, these are the ones, I think the figure was mentioned in the House. However, I think we are interested in it.

Interjection.

Mr. Chairman: There will be ^{an} opportunity, I am sure, for Hydro to set the record straight.

August 7/73
3.20-3.25 p.m.
E.M.

H - 1754 - 2

Mr. Genest: We seem to have another counsel back here, Mr. Chairman.

Mr. Chairman: If you agree these are not right, Mr. Genest, I am sure ~~they~~ will give Hydro an opportunity to give us their figures on it.

Mr. Shibley: I might say, Mr. Chairman, that my only purpose in presenting these to the witness is that certain committee members had asked me to produce this and ask Mr. Nixon for his comments.

Mr. Allan: MR. Chairman, I am very interested in that but I don't think we are in a position today to really go *into it*. I think we want to have a look at this by someone who knows what ~~the~~ *he* is doing.

Mr. Shibley: Yes, I realize that.

Mr. Nixon: Mr. Chairman, the Speaker would never allow that.

Mr. Chairman: We only allow ---

Mr. Allan: And you didn't know!

Mr. Nixon: You ~~are~~ not supposed to take me up so quickly.

Mr. Chairman: We only allow the truth in this room. Well, the Chairman must take some fault in this. I was interested in knowing how this figure of \$83 million was arrived at.

Mr. Shibley: Really, if Mr. Genest would have just waited for another question or two it would have eliminated all this, because the real question that I wanted to put to you, Mr. Nixon, is that you did not have responsibility for these calculations and relied on others to compute them.

Mr. Nixon: I must take responsibility for having presented them publicly, certainly, but I don't operate a computer, I don't have an MBA degree, and I suppose my job, for which I am

August 6, 1973
3.20-3.25 p.m.
M.F.

H - 1754 - 3

(Mr. Nixon)

paid by the taxpayers, is to present a view of a situation like this in terms that I intend certainly not to be misleading, but that, in fact, simplifying it to the point where we see what is being paid over a period of years for a certain facility. ~~and~~ We did that with OISE frequently and anybody who has followed the politics of the province is probably aware of that. ~~and~~ The Premier calls it the institute, we tend to call it OISE; I don't know what the difference is.

Mr. Shibley: In any event, as the Chairman has said, the figure that is of interest is the \$83 million in what is called operating profit. I gather that you are not today intending, ^{you} nor are ~~you~~ equipped to support that figure?

Mr. Nixon: No, sir, I would think that it would be the responsibility of the committee, if they choose to exercise it, to get independent judgment on the details of the contract.

Mr. Shibley: I might say, Mr. Nixon, my principal purpose, as you know, in calling you as a witness today at your own request had to do with the circumstance of Mr. Vernon Singer and his retainer by Mr. Moog, ~~and~~ Mr. Singer has himself stated that he did not attempt at any time nor in any manner to in any way influence or affect the conduct of any member of the Liberal Party respecting their attitude or approach to, or criticism of, the letting of that contract by Hydro to Mr. Moog.

I could think of no person better qualified to corroborate that circumstance ~~under oath than yourself and I want to ask you~~
~~as leader of the Liberal Party~~

Tape H - 1755 follows

Aug. 7/73
 13:25-3:30 pm
 EPLG

(Mr. Shibley)

under oath, then yourself, and I want to ask you as Leader of the Liberal party, whether at any time, right up until the present moment of time, you had become aware of any information, and I am not now just talking of personal direct knowledge, I am talking of any knowledge, ^{or} information ^{whether you} ~~have~~ you have become aware of, Any information of any kind whatsoever, whether it was in caucus, out of caucus, in the corridors or however, which would indicate or tend to indicate, that Mr. Singer at any time attempted to influence any member of the Liberal party, respecting their approach to the Hydro head office contract.

Mr. R. F. Nixon: I have no such information, and as a matter of fact, I can verify to the committee, Mr. Chairman, that Mr. Singer had gone out of his way to be sure that I and my colleagues were aware of his retention by Mr. Moog, both at the dates that were discussed this afternoon and previously, and that there has never been an occasion, either privately or at any other time, when he has attempted to influence the decision, for example, which was largely my own, to go forward with the series of questions and statements pertaining to the building of the new head office.

Mr. Shibley: ^{And} ~~Can~~ I understand Mr. Nixon, that if there were any such inclination on the part of Mr. Singer, it would certainly -- he is well-known to you, you speak to him every day, and there was all sorts of opportunity and no such communication of any kind ever took place between you and he.

Mr. R. F. Nixon: That is correct ~~and~~ and whenever it was appropriate, and I can think of more than one occasion, he made it plain to whoever was there for the discussion that he had been retained and did not offer an opinion under those circumstances.

Mr. Shibley: Well, that was to be my next question. Having regard for the circumstance that he was a solicitor of Mr. Moog's referable to other matters, did he in fact ever even contribute to any part of the decision-making of the Liberal

party in ~~the~~ its approach to criticizing the mode of letting
of this building?

Mr. Shibley: And I take it he expressed his reasons for refraining; namely that he was retained by Mr. Moog, referable to another matter.

Mr. Chairman: Any of the members of the committee have any questions? Mr. Renwick.

Mr. W. Hodgson: Maybe one more. Was he ever approached by any of the other builders or developers in this particular community?

Mr. R. F. Nixon: No, I was not. I was particularly interested in the reports of the early meetings of this committee when that became apparent.

Mr. W. Hodgson: That's a long time ago, though.

Mr. R. F. Nixon: It was a long time ago, yes, but I was not approached by them. I believe after the hearings had gone on and these names, I believe, of the four companies, that had submitted proposals or been a part of the proposal procedure, that we did make some inquiries ourselves, but there was no information of any that was new or that had not been reported in the press and the media in detail.

Tape H 1756 follows

August 7, 1973
3:30 - 3:35 pm
JLP

(Mr. Nixon)

~~Mr. Henderson: Mr. Chairman, Mr. Nixon, I have listened with interest to your evidence this afternoon, and I appreciate you coming before the committee. I have two questions. Number one, I take it from your evidence that your questions in the House were personally from you, they were of speculative nature, and that you had no knowledge of some of the things you were asking about?~~

whatsoever.

Mr. Wm. Hodgson: All right. Thank you.

Mr. Henderson: Mr. Chairman, Mr. Nixon, I have listened with interest to your evidence this afternoon, and I appreciate you coming before the committee. I have two questions. Number one, I take it from your evidence that your questions in the House were personally from you, they were of speculative nature, and that you had no knowledge of some of the things you were asking about?

Mr. Renwick: Do you mean that generally or specifically?

~~Mr. Henderson: Mr. Chairman, I want to tell you, Mr. Nixon~~

doesn't have counsel but I order him not to answer that.

Mr. Henderson: Mr. Chairman, Mr. Nixon, they were your own questions.

Mr. Nixon: That's correct, I worded them myself, my secretary typed them, I handed them to the Clerk of the Legislature for inclusion in the order paper.

Mr. Henderson: And you don't have any knowledge that's not available to the committee?

Mr. Nixon: That's correct. I do not have any knowledge that's not available.

Mr. Henderson: Well then the other question, Mr. Nixon, do you support my thoughts that Mr. Singer was under the impression that there was no bribery whatsoever with his retainer fee?

Mr. Nixon: I don't believe that there was.

Mr. Henderson: That's all, you support my ~~and~~ thoughts in that respect.

Of course.

Mr. Nixon: I thought your statement at the end of the last series of questions was an admirable one.

Mr. Henderson: Thank you.

Mr. Chairman: Any other member of the committee?

Mr. Glen Hodgson: Mr. Chairman, I believe earlier on our colleague on this committee, Mr. Bullbrook, made reference to the fact that he had received the lease from you to examine.

Mr. Bullbrook: No, from MR. Nixon's office.

Mr. Glen Hodgson: Oh, you didn't receive it from Mr. Nixon personally?

Mr. Nixon: No, it was in a file there and the people, one of the chaps in our staff has examined it as carefully as we could.

Mr. Glen Hodgson: Because I thought that was a little bit in conflict with what you had said earlier, and I want to clear that.

Mr. Bullbrook: Well, I should clear that then. I received a copy of the lease agreement from Mr. Nixon's executive assistant to look at, and the receipt of same was because I was a solicitor. I made it amply clear to Mr. Hodgson^E that it was above me, although I did have some comment with him as to my understanding of the effect of the four leases.

Mr. Glen HODGSON: All right. Thank you.

Mr. Renwick: I'd like to ask to clear up the - ~~this~~ this is a way off what we've been talking about - but I'd like to ask Mr. Nixon: No you have any knowledge, and I mean by that, knowledge or information, with respect to the person who may have been referred to in the two newspaper articles, the person or persons, referred to in the evidence of Mr. Manthorpe, ~~about~~ about Mr. Smith having been spoken to by someone "close to the Premier's office," which was the first expression, And then the one which appeared in the April 30 statement of The Globe and Mail, "a person close to the Cabinet and high in the Progressive Conservative Party?" I'm not asking for any speculation, I'm asking you do you have any knowledge or information as to the identity of any such person or persons?

Mr. Nixon: No Mr. Renwick.

Mr. Chairman: All right. ^{No} ~~any~~ further questions, Mr. Nixon. Thank you very much for volunteering to come, and for coming, and for giving us the help and evidence that you have. Thank you.

Mr. Renwick: It's all been very relevant.

Mr. Chairman: I think it's been relevant.

Mr. Shibley: The next witness will be Stephen Lewis!

August 7, 1973
3:30 - 3:35 pm
JLP

Mr. Renwick: He's returned from his holidays and he's waiting upstairs, and he feels rather left out.

Mr. Gaunt:

He may have had something to do with company X,

MR. Chairman: Well gentlemen, the next witness ¹ and I

don't propose that we should proceed with him today ¹ I think will be Mr. Moog; we'll be back with him. But I would like ~~my reason~~ ~~to have a recess~~ another executive session with members of the committee only for ten or fifteen minutes in any event, and I think that we could take a recess here for ten minutes, and then come back. If the committee wants to make some determination after that where we proceed, we can do so.

Mr. Henderson: Coming back for an executive?

~~Mr. Chairman: I would like the committee members~~

~~here and not proceed only~~

(Tape H-1757 follows)

August 7th, 1973

3.35 - 3.40 pm

H 1757 - 1

AA

(Mr. Chairman)

we can do so.

~~Mr. Henderson: Coming back for an executive~~

Mr. Chairman: Yes. I would like the committee members here and our counsel only, without Hansard, back here probably at ten to four. Now, I was going to suggest we release the other people,

Mr. Renwick: I think the decision should be made now as to whether or not you are going to ask the people to stay around or not.

Mr. Chairman: I think Mr. Shibley would rather proceed with Mr. Moog fresh tomorrow morning.

Mr. Renwick: I think you're quite right, Mr. Chairman, because an executive session of this committee limited to 15 minutes is I think perhaps . . .

Mr. Chairman: Well, as I said before, if we each speak ten minutes, that's two hours. Well, all right, Mr. Finlayson, you have a comment to ~~make~~ make before we recess?

Mr. Finlayson: Since I will not be at the executive session, could I put a little input on the record as to the things which I think that you, with respect, ought to consider.

Mr. Chairman: I am not saying that we will pay attention to it when we get in there, but at least put it on the record, Mr. Finlayson.

Mr. Finlayson: I think, with respect, that you ought to pay attention to it and as I say, it relates really to the timing of this hearing. When I came into this case at the end of June, I was told that it looked like Mr. Moog would be called as a witness on the following week, and ~~that~~ representations were made to Mr. Shibley that perhaps he could be allowed to stand down until Wednesday of that week so that I could learn something about the case ^{so} that when I met with him that ~~when I appeared~~ - when I appeared that I would have some knowledge

August 7th, 1973

3.35 - 3.40 pm

H 1757 - 2

AA

(Mr. Finlayson)

of the case. Mr. Moog, in one way or another, has been sort of on tap from the first of July forward and we are now into August. He has been asked to step down in favour of the Premier, ~~and~~ in favour of Mr. Bradshaw, in favour of the Leader of the Opposition, in favour of the Deputy Leader of the Opposition, and his evidence is not ~~yet~~ complete, ~~and~~ I, with great respect, would ask you to insist that counsel for the committee start with Mr. Moog tomorrow and continue with him until he has completed, so that Mr. Moog can leave and get about his business which, at the present time, involves the construction of the Hydro building.

I would also ask that if there is anybody else from Canada Square, which Mr. Shibley feels that he has to examine, that that be done immediately following Mr. Moog because there are a lot of issues that this committee is concerned with, that, with great respect, are of no concern to Canada Square or to Mr. Moog, and I would ask that the questioning of the Canada Square witnesses be concluded this week, so that we can retire, at least and get about the business of completing the building.

Now, I say this, that there is a very urgent reason, for this, ~~that~~ Mr. Moog has pointed ^{out} to you before, and I have too, that this business of rising interest rates is making it more and more difficult for Canada Square to be certain as to what its ultimate position with respect to financing is. But it would certainly be of a great deal of assistance to him and to Canada Square if we were in a position to say that regardless of what decision this committee ultimately comes to, ~~that~~ the examination of our witnesses has been completed and what they say is now a matter of public record and you can draw whatever inferences you like from it.

Now, I am not saying, in putting that suggestion forward that this is to preclude the counsel from recalling

August 7th, 1973

3.35 - 3.40 pm

H 1757 - 3

AA

(Mr. Finlayson)

these people at some later time if something new comes up that he feels it's necessary to recall these people, but I just say that in the interest of fairness and orderliness that the Canada Square witnesses should be disposed of ^{and} starting first thing tomorrow morning ^{and} until they are all finished.

If my friend has some other questions about Mr. Candy or people from Hydro, and I have heard some talk about financial witnesses, I, with great respect, I am not much concerned about those things. I am not saying they are not important from the committee's point of view, but they are of no concern to me or to my client. So I would ask you to consider those matters, Mr. Chairman.

Mr. Chairman: Thanks, Mr. Finlayson. I would hope that we would be able to carry on with Mr. Moog now. You talked about new developments and call-backs; I think that's what we have been trying to avoid. There have been a series of new developments, almost every week. I, for one, hope that we have come to the end of new developments and that we will not have to call back, but in view of these new developments

H 1758 - 1 follows

August 7, 1973
3:40 - 3:45 p.m.
M.R.

(Mr. Chairman)

...have to call back, but in view of the new development
I think that the committee has taken the evidence in the
right chronological order. However, your representations
have been made and heard by all and we are recessed for
10 minutes, but as far as the public is concerned, we
are recessed until 10:00 o'clock tomorrow morning.

The committee adjourned at 3:42 o'clock, p.m.

APPEARANCES

Committee members:

J.N. Allan
J.E. Bullbrook
I. Deans
M. Gaunt
L.C. Henderson
R.G. Hodgson
W. Hodgson
J.P. MacBeth (Chairman)
W. Newman
J.A. Renwick
G.W. Walker

Clerk of the committee:

Paul Moore

Committee counsel:

R.E. Shibley, QC

Assistant to committee counsel:

J.P. Bell

Ontario Hydro counsel:

Pierre Genest, QC
James McCallum, QC

Canada Square counsel:

Douglas Laidlaw, QC
Blair Cowper-Smith
G.D. Finlayson, QC

Campbell, Godfrey & Lewtas and representing Mr. Moog

J.A. Bradshaw

Representing Mr. Bradshaw

Claude Thomson

Member, Legislative Assembly of Ontario:

Vernon M. Singer

Leader of the Opposition:

Robert F. Nixon

INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Page</u>	<u>Description</u>
200.	1752 - 2	Press release - March 26, 1973 - Office of the Leader of the Opposition re Contrast for new Hydro Head Office building

#60

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Wednesday, August 8, 1973

Morning session

1759-1720

H-1759-1

August 8/73
10.15-10.20 a.m.
E.E.

LEGISLATURE OF ONTARIO

SELECT COMMITTEE - HYDRO HEADQUARTERS

The committee met at 10:15 o'clock, a.m. in the members' board room.

Mr. Chairman? Gentlemen, we have a quorum here so I call the committee to order.

Last evening the committee met by itself, counsel and clerk, and after some deliberation we decided that we would proceed with evidence today and tomorrow and then take a two-week break and re-assemble here on the 27th of August. We hope in doing so that it will in the long run organize our work and allow us to proceed more expeditiously. So that is the hope of what we are doing and, as I say, we will proceed today and tomorrow and then break for two weeks and come back on the 27th of August.

Mr. Shibley? He has seen the decision for the adjournment in the newspaper this morning and I just want to go on record as saying, as I have said before and as I indicated privately yesterday to you at least, sir, that I on ^{behalf} ~~behalf~~ of Canada Square am very much opposed to any adjournment of this hearing. I am anxious that the matter proceed at least until we can dispose of the witnesses for Canada Square.

I was also appalled to read in the paper this morning that Mr. Shibley is quoted as saying that he has another 15 witnesses that he proposes to call, which in no way at the rate that we have been proceeding will mean that this hearing will only last another two weeks.

Now, Mr. Chairman, I think I am entitled to ask Mr.

August 8/73
10.15-10.20 a.m.
M.M.

11-1759-3

(Mr. Finlayson)

Shibley just what theory he is putting on now because you will recall that after very pointed probing on my part he came up with the theory that the money which was backing this particular venture was Swiss money, which was in some way being funnelled through company A, a major financial institution in the United States, and that theory fell flat on its face, particularly when his old friend and solicitor who he said he would ^{accept} on his oath in advance called the theory bizarre.

Yesterday we heard from Mr. Nixon, the Leader of the Opposition, and he testified that he is not in a position to support the calculations of profit made by my client on this building and he also stated that he had no additional information to give this committee other than what they had at the present time.

So that, with respect, it appears that so far as the man who was probably more than ~~any~~ any other person responsible for prompting this probe ^{is concerned, he} has now advised the committee that he has no information other than what they ^{had} before ^{them}.

Now, Mr. Chairman, ~~in~~ in pursuing my enquiry as to just where we are going here, I have to say that I am very much concerned that this hearing is turning into an attempt by committee counsel to get Moorg. Now I have heard a very ugly rumour that ⁱⁿ ~~an~~ executive session that Mr Shibley referred to my client as a "bastard" and said that he ^{proposed} ~~was going to~~ prove that that was so. I want Mr. Shibley's assurance that he made no such statement to the executive session and that he ~~is not~~ isn't proceeding to proceed ~~on~~ on the basis of trying to blackmail or blacken the reputation of my client.

August 6, 1973
 10:20 - 10:25 a.m.
 M R

Mr. Chairman: Well, Mr. Finlayson, what went

on in our executive committee is confidential and it should remain so. I'm not prepared to have anybody comment as to what did or did not go on other than what I, as chairman, was authorized to release by way of statement at the end of the time.

Now, as to where we are going Mr. Shibley has outlined his thoughts in regard to it. The committee has heard those thoughts and we have decided to proceed as indicated to you. Your views were known to the committee; they were not known to the public. In the interests of time we will not discuss this further by the day the 11th meets. Now that is not the case but it is a hope that I think we all agree on. We will discuss this further.

Mr. Finlayson: All right, I'll say at this time.

We know how our work is to get through. The report is to be made and we must serve their purposes by taking a look at it and to organize our own minds and to make a decision on what we can do. We can take a look at it in an appropriate manner.

So with that in mind Mr. Shibley, if you would

proceed please, sir.

Mr. Finlayson: Well, Mr. Chairman, I'm afraid,

with respect, that is not a satisfactory answer. And so far as Mr. King is concerned, I am not going to testify for the next two days unless I have a firm assurance that that will conclude his testimony.

Mr. Chairman: Well now, Mr. Finlayson...

Mr. Finlayson: I - with respect...

Chairman: I'm not supposed to give that,

now do I believe the committee is prepared to give any sort of assurance that that will conclude his testimony?

August 8, 1973
10:20 - 10:25 a.m.
M R.

Mr. Finlayson: Well, I'm not going to have my

client go in that box and be subjected to two days of

cross-examination by Mr. Shipley so that he can then adjourn

for two and not work on evidence for more cases-

examination. In doing so, I am not going to be entitled

to have all of this evidence and I am not going to have

evidence that I am not going to have.

five week - I am not going to have it. I am not going to

to step down so that other witnesses can come in and when he

comes back in the box, he's cross-examined as to what those

other witnesses said. I am not going to have it. I am not

going to have it. I am not going to have it. I am not

going to have it. I am not going to have it. I am not

going to have it. I am not going to have it. I am not

respect. I say in simple fairness to the witness he is

entitled to ask you to adjourn and I am not going to have

back and that's all. I am not going to have it. I am not

consecutive days until you are finished with him.

I am not going to have it. I am not going to have it.

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U-161 20 191-11

(Mr. Finlayson)

I can say with some assurance that in any court of law the judge would insist that counsel proceed with the examination of the witness in an orderly manner, and subject to something unusual happening, conduct that examination. Mr. Chairman: Well, as you know, Mr. Finlayson, other witnesses have been called at early dates and asked to step down and some have been called back. Now, ~~it is not~~ much difference between called back and stepping down. I know it would be desirable to proceed all at one time. You are suggesting that we should do this by adjourning today and then coming back on the 17th of August. ~~It is not~~ ^{the committee} considered that and thought that in fairness to everybody, the public as well as to the people who are expected to be here this morning, that we should not do that.

This is an investigation; it is not a trial, but it is
 an investigation, and there is a difference between the investigation
 means that Mr. Shibley is both information gatherer and this is
 one of the things that the chief difference is that he has been
 labouring under while he has been conducting his examinations
 here, he has also had to investigate, and in the course of his
 investigations, naturally different points, different aspects,
 have arisen, and this is why, if everything had been plainly put
 on the table right at the start, we wouldn't have had to proceed
 in this way.
 Now it has been difficult for all of us concerned
 certainly the part of witnesses and we intended to call -
 that is certainly a matter for the committee and not for any
 of the counsel to tell as how many witnesses or whom we should
 in fact call.
 Now I apologize for the break in Mr. Moore's testimony,
 but he has not been alone in that treatment and, as I say, the
 reason for the break has been because of the fact that we have
 been investigating as we have gone along and Mr. Shibley did not
 have an opportunity of a month's preparation for this thing.
 Maybe he should have had, but he has had to do his investigation
 on the weekends.
 Now I think that we should proceed. Mr. Moore is here,
 and it is my thought that we should proceed at this time. I
 don't know whether any of the committee members have any
 comment to make.
 Well then, Mr. Pinlayson, I would ask Mr. Moore to
 come forward.
 Mr. Pinlayson: I am persisting in my position,
 Mr. Chairman, I am not prepared to go ahead on that basis.

(Mr. Chairman)

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11P
10-25-10 30 am
August 1, 1913

August 7, 1913
10.25-10.30 a.m.
M. F.

H - 1761 - 3

(Mr. Chairman)

to prosecution and punishment, criminally or otherwise,
according to law independently of this Act, the Acts, matters
and things as follows:

Section 45:

"Every person who upon such inquiry is found to have committed or done any of the acts, matters or things mentioned in section 45, in addition to any other penalty or punishment to which he may by law be subject, is liable to imprisonment for such time during the session of the Legislature then being held as is determined by the Assembly".

Section 17(1):

August 8th, 1973

10.30 - 10.35 am

H 1762 - 1

AA

(Mr. Chairman)

~~the person who was arrested~~
~~detained~~
~~the person who was arrested~~
the Sergeant at Arms to take the person into custody and to keep and detain him in custody, in accordance with the orders of the Assembly."

Subsection two of section 47, "Where the Assembly directs that the imprisonment shall be in a correctional institution in the judicial district of York, the Speaker shall issue his warrant to the Sergeant at Arms and to the superintendent of such correctional institution, commanding the Sergeant at Arms to take such person into custody, and to deliver him to the superintendent of such correctional institution, and commanding the superintendent to receive and keep and detain him in custody, in accordance with the order of the Assembly."

Now, Mr. Moog, I don't read that to be dramatic, I read it with the intent that you should know the powers of the Legislature in regard to the matter. We have the power to demand your attendance. We have the power to demand your evidence.

Now, on the advice of counsel and I remind Mr. Finlayson that it is on advice of counsel and these remarks may be directed to him as well, that you are refusing to come forward and give evidence at this time.

Now, this committee's procedure will be simply to report what I, as Chairman, and I believe the committee - although the committee can decide for themselves but which certainly I, as chairman of this committee, regard as contempt of this committee and therefore, contempt of the Legislature.

However, it is the Legislature that has to make

August 8th, 1973

10.30 - 10.35 am

H 1762 - 2

AA

(Mr. Chairman)

that decision and it is the Legislature that will eventually have to decide whether contempt has taken place and what, if any, penalty they wish to invoke.

Now, I have read it, Mr. Moog, and that's all I have to say. Mr. Newman.

Mr. W. Newman: Mr. Chairman, I realize this will be probably a very unpopular suggestion, but I realize we have no way of knowing for sure whether Mr. Shibley will finish with Mr. Moog in two days or three days. Would it be possible, in fairness to Mr. Finlayson and his client, if we went ahead as far as we could go up until then, maybe including this Friday, which I don't like, sitting on Friday, which would wind up most of the evidence and Mr. Moog would be subject to recall for further questioning or points of clarification. Would this be possible? I mean, I don't like to see us getting involved in a legal hassle which could go on for a year or whatever it may be. Is it possible that we could do this? Is Mr. Shibley prepared to do that or could he do it knowing that we are going to get a break next week assuming that ~~the evidence is not~~ or Mr. Moog could be basically cleaned up by say Friday at noon. It is just a suggestion, other than getting ourselves into an impassé situation here where ~~we are~~.

Mr. Chairman: I don't think so, Mr. Newman. I gather that Mr. Shibley has a lot of work to do in regard to organizing the evidence to date and that Mr. Moog's evidence is important in regard to that and that that would not assist in speeding up in the long run.

Mr. W. Newman: Well, Mr. Chairman, I realize that all the witnesses have been subject to recall. We have recalled many witnesses. I think I misinterpreted Mr. Finlayson wrong. I think his basic evidence is what you want, subject to recall for clarification after maybe some

August 8th, 1973

10.30 - 10.35 am

H 1762 - 3

AA

(Mr. W. Newman)

of the other witnesses have come on. That was all I was suggesting in order to try and alleviate the situation of getting involved in long involved legal hassles, which are only going to delay the sittings of this committee.

Mr. Chairman: Like carrying on on Friday, you are suggesting

Mr. Newman: Right. I mean, I am talking about Friday ~~because~~ because we know we are going to get a break, at least some of us are going to get a break next week and some of us are ~~on other matters~~ but I mean basically ~~the~~ the ~~idea~~ ~~that~~ ~~was~~ ~~to~~ ~~say~~ ~~better~~ ~~do~~, Mr. Shirley, if you want to ~~have~~ ~~the~~ ~~committee~~, in that we might adjourn ~~because~~ we go into session. Mr. Deans

Mr. Deans: No, I don't want to adjourn. Mr. Finlayson, you have been extremely difficult over the last few weeks, in all fairness to you, in the protection of your client, but you have alienated the ^{member of} committee unnecessarily, I think. Since you are expressing opinions, I will express one. And I think in this instance, you are doing it again, for whatever reason, I am not too sure.

I don't understand why Mr. Moog can't give whatever testimony Mr. Moog wants to give in the next two days. We have considerable number of hours ahead of us and the longer we spend wrangling over this, the more difficult it becomes. ~~don't~~ ~~have~~ ~~the~~ ~~committee~~ ~~have~~ ~~the~~ ~~time~~ ~~to~~ ~~do~~ ~~the~~ ~~work~~ ~~that~~ ~~is~~ ~~before~~ ~~the~~ ~~committee~~ ~~for~~ ~~the~~ ~~purpose~~.

1763 - 1 follows

Aug. 8/73
10:35-10:40 am
PLG

(Mr. Deans)

~~Special Agent in Charge, Federal Bureau of Investigation~~

I don't want to see Gerhard Moog pulled up before the House for the purpose of determining what the punishment shall be for contempt any ~~more~~ more than anyone else does, and I don't think that it is necessary. Now if there is some personal reason why you want to battle with Mr. Shibley, by all means go outside and do it. Get yourself a referee and go out on the front lawn and scrap, but don't scrap in here and disrupt the committee. Now for goodness sakes, I am sure Mr. Moog is a reasonable man and wants to get it over with, and I think that in all fairness, all that is happening here is that you are creating another diversion that we don't need. Now tempers are getting a little short and that is one of the reasons why we are having a break, ~~is~~ so that we can deal reasonably and sensibly with the remainder of the evidence that is to come before this committee. It is not being done for any subversive reason or for any reason that we are not prepared to tell you. Now it has not been a matter of trying to get Gerhard Moog or anyone else. I am sorry he is not skippering his boat just the same as he is, but the fact of the matter is that we are going to get the evidence in any event and if it requires a delay at the other end, we are still going to get the evidence. Now, surely since we are all here and since Mr. Moog already has all of the knowledge that he need ever have about the building, that he could proceed and give what evidence he has and if we have to recall him at the end of that period when we have had the break, then we will recall him, just as we may have to recall many other people.

Mr. Finlayson: Well, Mr. Deans, I would point out in the first place that it isn't a question of Mr. Moog going forward and giving what evidence he has to give; it is a question of Mr. Moog going into that box and being cross-examined, because that is what is happening. There is no semblance of regular examination of this witness at all. Mr. Moog has been cross-

Aug. 8/73
10:35-10:40 am
PLG

H 1763-3

Aug. 8/73
10:35-10:40 am
PLG

(Mr. Finlayson)

oppose, but if you are going to adjourn, then you should adjourn now and not wait until Thursday.

Mr. Chairman: William Hodgson

Mr. W. Hodgson: As I stated before, I think that Mr. Finlayson has a very good point. I think as a committee we should try to treat witnesses as fairly as possible and I would suggest at this time that we go into executive committee for 15 minutes and reconsider some of the points that we considered yesterday about adjournment and maybe we can come out with a reasonable suggestion that may be satisfactory to all parties concerned. ~~I know you would like to adjourn~~

Tape H 1764 follows

August 8, 1973
10:40 - 10:45 am
JLP

Mr. Glen Finlayson

this one over to an evening session between the supper hour, to work on our other select committee, through the months of May and June, and then went into the House after that, to the early hours of the morning and came back here early in the morning, tried to do our constituent work. And, quite frankly, in the interests of our constituents, in the interests of our people at home, each and every one of us on this committee has certain responsibilities to those people that we have not been able to fulfill due to the legislative duties that have been imposed upon us.

But Mr. Finlayson has not considered the position of the committee. In his discourse, for one ^{very} basic reason, he has not seen the whole truth and nothing else but the truth of his client being stated in my testimony at my time. And my opinion is that we are here now, we are ready to do business and I feel that Mr. Moog can spend today at least very fully in explaining to us matters surrounding the building, such as its quality, the construction and so on. And at some point in time, certainly Mr. Moog wants to make that thoroughly to the committee. Perhaps we can stay away from such matters that might be controversial to Mr. Finlayson in his opinion at this time, such matters as financial matters. But surely this committee does not have to recess, nor to be interrupted in its evidence as to being full and valuable, and the position of Mr. Moog wanting to make the points that his building is of value; it has distinct features; all those things could be thoroughly made today in my opinion by Mr. Moog.

And I think he could serve his own purposes; he could serve the purposes of this committee thoroughly, and I ask Mr. Finlayson not simply to reconsider his position on this matter at this time.

Mr. Chairman: Mr. Gaunt.

Mr. Gaunt: Mr. Chairman, I think it's fair to say that Mr. Finlayson made his position, and the position of his client abundantly clear yesterday before we went into executive session. I think Mr. Finlayson indicated that he was definitely opposed to a recess. And that is our decision, through the committee that representatives be considered, along with all of the other considerations which

August 8, 1973
10.45 - 10.50 a.m.
M.R.

(Mr. Gaunt)

~~Mr. Chairman~~ I just make the comment that every member of the committee and, I think, every person who has appeared before this committee, has certain pressures weighing in on him and it's a balanced judgement. We have to weigh all of the things in making our decisions and I think we did that yesterday in an endeavour to try and be fair.

Anyway that I think Mr. Richardson is being unnecessarily difficult. I think that we could proceed today and allow Mr. Moog an opportunity to describe the building, to describe the features of the building he thinks are important and why in general terms the contract is a good one. I'm sure he feels that way. And I see no reason in the world why we can't proceed on that basis today as was decided yesterday.

Mr. Chairman: All right. Thank you, Mr. Gaunt. The question of the break in Mr. Moog's testimony I say, is no different from many others. To ~~some~~ ^{the} objection, the fact that he has been cross-examined. I don't think that he has been cross-examined in any more rigorous a manner than many of the other witnesses that have been before us.

As far as proceedings of Select Committees of the ~~House~~ ^{of Representatives}, the ~~admission~~ ^{admission} of any representations by counsel is something that this committee allowed and is a bit of a precedent in that regard. Now, I think it's right and just that we should have allowed counsel representations, but on other occasions they have all been made through the counsel to the committee. So that when you are suggesting that we have not given due consideration to your client, Mr. Moog's position, I can't agree with you.

At the present time, we have asked him to come forward. You can see in some of the members of the committee there is an attempt to accommodate but in my mind there has been little or no attempt on counsel's part. In this, counsel

August 8, 1973
10.45 - 10.50 a.m.
M.A.

Mr. Chairman)

for Mr. Moog's part, to accommodate this committee; that
the matter where we go there seems to be objections to what
we are doing.

Now, other people ~~may not have~~ may not have
appreciated the ~~importance of~~ importance of the
hydro people ~~received pretty much the same treatment~~ and
if you feel that Mr. Moog should not have the same treatment
that the Hydro people have had, I can't certainly agree with
that. And I feel it would be a mistake at this time for the
committee to do otherwise than adjourn on the basis of the
refusal of ~~Mr. Finlayson~~ Mr. Finlayson and Mr. Moog ~~first~~ Mr. Finlayson
to advise ~~the committee~~ the committee of their refusal to
testify.

Now, that's my thought and what I am prepared to
do. What we do with that information will be up to the
Speaker of the House and the House itself, but as far as
proceeding it will certainly mean that we have that Mr. Moog
and of getting some early reprimand of this will likely
be done.

I had hoped that our report would be in the House
the 1st of October but I don't think we can allow this
committee to be guided by one counsel or one witness and I
feel on that basis that as far as I am concerned I am
terminating that we adjourn and report to the House.

Mr. W. Newman: Mr. Chairman, you are talking
of reporting to the House. Are you
expecting that you are going to report to the House when it
is back into session?

Mr. Chairman: ~~Whenever the House~~ ^{Whenever} ~~the~~
Speaker ~~wishes~~ wishes to do with the information.

Mr. W. Newman: Well, Mr. Chairman, in this
connection, the only thing that does concern me is that ...

August 8, 1973
10.45 - 10.50 a.m.
M.R.

Mr. Chairman: "I don't imagine that the House

will be called back. I don't imagine it will."

"I don't imagine it will," the House is due back in on
October 22nd, and it is a very busy day. Total inquiry and
Mr. Finlayson's inquiry, and then that Mr. McGee should have
gone ahead. I think I mentioned to you was that if
we adjourn today, and we don't go back in, well, today it does
give us two weeks less a day and as that time as we can go
straight ahead. Why can't we do something like this, rather
than waiting for the House to go back on the 22nd or 23rd of October,
letting the House finish it up and for several days and not
getting back to our hearing program until the middle of
October and then dragging it through perhaps until, well,
~~now, today, tomorrow, and the day after tomorrow, I'm really~~
~~anxious about Boxing Day and really if we can do something~~
~~to~~

H 1766-1

Aug. 8/73
10:50-10:55 am
PLG

(Mr. W. Newman)

~~somebody~~ ^{I'm really} somebody suggested very facetiously before, ~~and~~ ^{and} serious about Boxing Day and really if we can do something to try and keep this thing moving along in a smooth way and maybe, Mrs. Hedwick is here, ^{and} ~~and~~ he always has a good suggestion ^{that} ~~we~~ ^{we} keep it moving along without getting into trouble, but certainly if we could do that and would allow our hearing to go ahead in an orderly manner, I think we should ~~not~~ really consider it.

Mr. Chairman: I appreciate that thought again, Mr. Newman. My concern is that we need the cooperation of Mr. Finlayson and Mr. Wood to complete the task that we have been given. Now we have assurance that this cooperation will be forthcoming at any time up to my way of thinking, if we decide along the line that you and Mr. Finlayson are suggesting, that cooperation will be forthcoming. ~~They~~ ^{we} have been ~~to~~ ^{to} date and that is what bothers me.

Mr. W. Newman: Mr. Chairman, let's get one thing straight. I didn't suggest I agreed with Mr. Finlayson at all.

Mr. Chairman: No, no, I am sorry...

Mr. W. Newman: I just want to make that plain.

Mr. Chairman: With the suggestion that we hear all of this evidence at one time. My own thought is that that is no different than the treatment that many of the other witnesses have had and as far as the ~~not~~ cross-examination, if he is objecting to cross-examination I don't think anybody could have received a more rigorous cross-examination than members from Hydro have.

Mr. Genest: you look as though you are...

Mr. Genest: Mr. Chairman, I am just consternated and flabbergasted by the suggestion that this committee would now rise and not resume any of its deliberations or the hearing of any evidence until after October 1. I tell you, Mr. Chairman, this is not the way to handle it. The hearings are holding up all the work at Hydro. Their reputation is still under

Aug. 8/73
10:50-10:55 am
PLG

(Mr. Genest)

a cloud and it is intolerable in my respectful submission, that you should just stop until October 1. Now you have got a very easy procedure open to you. You can find that by reason of my refusal to appear today Mr. Moog has committed a contempt and he can be reported to the House in due course, but surely you can go on with the inquiry. If he shows up here on the 1st or the ^{10th} ~~day~~ on which you want to adjourn, well you may still find he is in contempt & because he didn't want to do it today, but surely it would be the height of irresponsibility on the part of this committee to now just leave this thing here until October. I ask the committee to seriously consider its responsibilities in this regard.

Mr. Chairman: Mr. Genest, I didn't indicate that I wouldn't or the committee would not report to the House in the interval. The responsibility may then be on somebody else's shoulders as to ~~what~~ ^{what} the procedure is followed. I ~~have~~ ^{have} asked as Chairman of this committee to have witnesses come forward and he has refused to do so. Now, ~~what~~ ^{what} is the situation?

Mr. Genest: Rep. is not in the House. ~~What~~ ^{What} is in contempt. ~~What~~ ^{What} is the situation? We all want, we all want expect this committee to conduct a proper investigation. If one of the key witnesses refuses to give evidence, ~~what~~ ^{what} is the situation? If one of the key witnesses decides he is going to dictate the terms of when the committee shall sit and when it will proceed, and that is the position that we are presently faced with.

Mr. Genest: I don't know what your thoughts are on it. I welcome you back. We are glad to have you here. If you can be a Solomon.

Mr. R. G. Hodgson: Mr. Chairman.

Mr. Chairman: Yes, Mr. Glen Hodgson.

Mr. R. G. Hodgson: I think that if they are concerned about a recess doing harm to their positions and to their reputations and to their financial positions and all these things, I think seriously I think my suggestion of a compromise for today and tomorrow was a very valid one. I wish the counsel for Mr. Moog

H 1766-3

Aug. 8/73
10:50-10:55 am
PLG

(Mr. R. G. Hodgson)

and Canada Square would seriously consider it, because I don't think that harms in any way their position, But I do say to you Sir that if we report to the House, the House may well find that they will not resume this ~~work~~ committee and they may start in another form from point one. I say to the counsel for Canada Square and Ontario Hydro and other people that they should seriously consider this, ~~because~~ because if that is the case, their harm may be tremendous and very extensive.

Mr. Renwick: Mr. Chairman.

Mr. Chairman: Mr. Renwick.

Mr. Renwick: I suppose we can dignify this problem which counsel for Mr. Moog has placed before the committee as game playing. I doubt even if it deserves that appellation. The committee has been subjected for three weeks now to continuous obstruction by Mr. Finlayson. We would have been much further advanced, the progress of the committee would have been assisted in many ways, by even a modicum, and I understand that word means

Tape H 1767 follows

August 8th, 1973
10 55 - 11 am

H 2767 - 1

AA

(Mr. Renwick)

~~and I think that there is no question that~~
a slight degree of co-operation from Mr. Finlayson. I think that there is no question that the refusal of Mr. Moog to take the stand on the advice of his counsel is a clear contempt. I would, however, ask the committee to seriously consider what we are about, which is an enquiry relating to matters touching upon the public interest, which is the basic area of our concern and certainly, the point which Mr. Genest made with respect to the public interest of the province and the affairs of the Ontario Hydro Electric Power Commission are matters to be seriously considered before the committee went to adjourn sine die ~~and sine die means without a~~ date being set - before any further proceedings of the committee take place.

My understanding is that the committee as a whole is not in a position or has had the opportunity to make the reassessment of the position of the committee with respect to its future work ~~and~~ Mr. Moog's co-operation we could have come close to completing this aspect of the matter and have reassessed the position of the committee.

It would be my view in these circumstances to in due course report the contempt of Mr. Moog, alleviated to some small extent by the advice of his counsel, but after all, the warrant was direct to Mr. Moog and it is Mr. Moog who must answer and not his counsel, and I think that Mr. Moog should be perfectly clear of that, and if he wished to take advice of another counsel on that point to clarify it, perhaps he should understand that point very clearly. ~~It~~ ^{It} seems to me to be the only alternative having regard to the difficulties in which Mr. Finlayson has placed the committee for some two to three weeks, which

August 8th, 1973

10.55 - 11 am

H 1767 - 2

AA

(Mr. Renwick)

over a period of time and on any assessment was a concerted attack on ~~testing~~ the committee, to prohibit it from functioning properly and to interfere to the greatest extent; and it may well be that in these circumstances, that the committee should be well advised to consider as well citing Mr. Finlayson for contempt of the committee in the advice which he has given his client to disregard the warrant of the committee with respect to his appearance before it.

Mr. Chairman: Mr. Renwick, I addressed my remarks to both of them sir.

Mr. Renwick: Thank you. I just was not here when you made those particular remarks. But I would urge the committee that if it decides to adjourn today that it reconvene on the date which it intended to reconvene and that we proceed at that time. I cannot say that in the circumstances the committee will see fit to immediately recall Mr. Moog on the day in order to meet his convenience. As usual, we will try to be as fair as we can in the extremely difficult circumstances, but I would ask that the contempt be specifically recorded, that consideration be given to the question of whether or not Mr. Finlayson is in contempt, that the committee adjourn and reconvene on the date on which it was intended that it reconvene which I understand was August 27th, and that the committee would then proceed at that time in anticipation that we could continue to discharge our responsibilities to the public, of which the Ontario Hydro Electric Power Commission is a significant ingredient.

Mr. Chairman: Well, thanks, Mr. Renwick. It is a useful suggestion. My concern is, of course, that we can't proceed without Mr. Moog's testimony and his lack of co-operation today.

1768 - 1 follows

(Mr. Chairman)

don't think there is any guarantee that we will have it in the future. You yourself have referred to the repeated difficulties we have had with him and his counsel as far as the proceedings of this committee are concerned, and it seems to me that we would be doing ourselves an injustice to simply adjourn today and come back on the 27th of August prepared to proceed with Mr. Moog at that time.

Mr. Hatchcock: I wouldn't regard that as a purge of any contempt ~~order~~. I'd want to record that.

Mr. Henwick: That would not be a purge of any contempt; nobody should labour under any misapprehension that by meeting this particular point, either that the ~~act~~ contempt is purged nor should the committee anticipate that we will receive any cooperation from Mr. Finlayson when we return. There is nothing on the record that would indicate that, and therefore we ~~shall~~ be advised, I THINK, in our own way, to decide the order in which we will proceed.

It may well be, of course, that having refused to attend that we may have to ~~conclude~~ conclude these proceedings without ever hearing Mr. Moog, if that made sense, in which case, of course, we would have to draw our own conclusions from the ^{present} minimum of evidence which is available to us and ^{to} which we had hoped, of course, that he would be able to respond.

I would be inclined to think that we may have to follow that course. On the other ~~of~~ hand, the committee may decide that they wish to hear all the other evidence and then to give Mr. Moog, in a spirit of fairness, an opportunity to appear and give his evidence without in any way eliminating the

August 8/73
11.00-11.05 a.m.
E.M.

H-1768-2

(Mr. Renwick)

obvious contempt which has happened at this present time.

Mr. Chairman, will you hear one further word. I seemed to me when Mr. Renwick said just now that there was nothing on the record; I thought I heard earlier, several times, from Mr. Finlayson, the proposition that, in any event, he would produce his client to be examined on the 27th. In fact, I understood him to be saying that's what he wanted, ~~and~~ I am not trying to get into the discussion of contempt or not. I certainly agree with ~~the~~ submission made by Mr. Renwick, but it did seem to me that if you stuck to your original decision of coming back on the 27th, you can deal with ~~that~~ then as you see fit. You will have stuck to your original decision, and one gets the impression, if I am understanding Mr. Finlayson, that he, at least at this moment, is committed to the proposition ~~that~~ on that day, he will produce his client.

Mr. Chairman: The problem with that, Mr. McCallum, is of course; is Mr. Finlayson running this committee or is this committee running ~~it~~.

Mr. McCallum: Well, I recognize that but there is another ~~point~~ there's ~~another~~ ~~point~~ ~~to~~ ~~make~~ ~~the~~ ~~point~~ that it won't be just a ~~contempt~~ ~~charge~~ ~~to~~ ~~be~~ ~~made~~ Mr. Genest has told you . . .

Mr. Genest: Mr. Chairman, I would like to just add to that. It seems to me that the committee has in its ^{now} power ~~to~~ make a clear decision that there has been a clear contempt committed. But that should not . . .

Mr. Chairman: I think that is a matter ~~of~~ the House, Mr. Genest.

Mr. Genest: Well, to report to the House to that effect, but it seems to me that you are allowing Mr. Moog to disrupt this hearing a good deal more by adjourning these proceedings until the House reconvenes and my respectful

August 8th, 1973

11 -11.05 am.

H 1768 - 3

AA

(Mr. Genest)

submission is that you ought to deal with what the committee considers to be contempt as a separate issue, but get on with the hearings. Mr. Moog, by giving evidence on the 27th, I think as Mr. Bullbrook has pointed out, does not cure or purge what he did today. But surely that can be dealt with as an incident and not as a reason for just disbanding these proceedings, which is extremely harmful. I can't over-emphasize the effect of that on a very important institution of this province, to which I suggest, with great respect, the members of this committee have some responsibility.

Mr. Chairman: Well, Mr. Genest, I am always glad to hear from you. You put your points well and forcefully. It may be that Mr. Genest's suggestion is what the committee will want to adopt. It has sweet reason to it, to my way of thinking. My concern is - yes.

Mr. Henderson: Mr. Chairman, before you make a final ruling, I agree with Mr. Renwick on this and I would like Mr. Binlayson to know that I am very disappointed in his decision this morning not to put the witness on the stand because the committee met in order to get Canada Square's evidence. But I am wondering if you should decide, any not go ahead with the witness that you maybe had next.

Mr. Chairman: Well, I am not so sure that we have any witnesses that we are prepared to go with, Mr. Henderson.

Mr. Henderson: Well, I leave you with that.

Mr. Chairman: And this is again the type of difficulty that counsel for this committee has had all the way along.

21/8/73

August 6, 1913
11:05 - 11:10 am
JLP

(Mr. Chairman)

He has had to, to ~~use~~ colloquial, he's had to fly by the seat of his pants and this is one of the problems. But -

Mr. Henderson: I'm certainly not ready at this moment,

Mr. Chairman, to adjourn the committee as has been suggested, and -

Mr. Chairman: Well, that was -

Mr. Henderson: I certainly want an opportunity -

Mr. Renwick: You mean permanently.

Mr. Henderson: That's right.

Mr. Chairman: Well, that was my, of course, my suggestion -

Mr. Henderson: I'm not ready to do that, sir.

happy to be guided by the advice

Mr. Chairman: And I'm ~~HAPPY TO BE GUIDED BY THE ADVICE~~ of the committee,

Mr. Henderson: I feel we should go on with other witnesses,

and then report on the present witness if he doesn't want to appear.

Mr. Chairman: Mr. Walker.

Mr. Walker: Mr. Chairman, I'm prepared to adopt the sug-

gestions put forward by Mr. Renwick, and echoed by Mr. Henderson:

I'm somewhat disappointed that the matter cannot proceed this morning.

I don't know if there are other witnesses to go on. If there are,

I am in favour of continuing with other witnesses at this point so

that our day is not totally wasted.

If there are not, I see no purpose of spending much more time here today. I think we should abandon the hearings until the 27th, I believe it is Monday, or is it Tuesday - Monday, the 27th of August, then continue with other witnesses, and, as Mr. Genest has suggested, deal at that time with the matter of Mr. Moog and the possible contempt.

Mr. Chairman: Mr. Shibley, I'm asking you because -

Mr. Wm. Hodgson: Mr. Chairman, *before we proceed further*

Mr. Chairman: I just want to ask Mr. Shibley that one question. Is there anybody else you are prepared to go with today?

Mr. Shibley: Mr. Chairman, my preparation had been wholly directed to examining Mr. Moog.

Mr. Chairman: Fine.

August 8, 1973
11:05 - 11:10 am
JLP

Mr. Wm. Hodgson: Before we make another decision, ask the witness to come to the witness box again, and then if he refuses, why he certainly won't have my support.

Mr. Chairman: Well, ^{all} right. I was going to give him one more opportunity here. I just had two notes. I don't know whether anybody else wants to speak. If not, I think the consensus is that we adopt Mr. Renwick's suggestion, the time element on it. Goodness knows, I was hoping that we would have our report in by the 2nd of October. I don't know what this does to our time element.

Mr. Renwick: Mr. Chairman, I think that is our goal and our target. If we don't have Mr. Moog's consent, then the report will be made on the basis of the record as we have it. And I don't think we should depart at all from our objective of tabling ~~the~~ ^{our} report on the day on which the House reconvenes.

Mr. Chairman: All I'm saying is that this may add to our difficulties in doing so.

Mr. Bullbrook: I recognize that I haven't had the opportunity of —

Mr. Chairman: I was looking at you a couple of times, Mr. Bullbrook, and I thought maybe you had decided against speaking.

Mr. Bullbrook: ^{No.} The reason I hadn't made any comments, I substantially agree with what Mr. Renwick had to say with the possible exception of joining with him without reservation in connection with the comments that Mr. Moog might seek other counsel.

I think really this is the basic problem in even speaking to the matter, is the fact that to some extent we're attempting to persuade a witness not to take the advice of his counsel. I want to ^{well}, I say to some extent, so ^I want to make it ^{very} clear that I don't regard Mr. Moog's position nearly as seriously as I regard Mr. Finlayson's position. Because under our system, and this is what we've been dealing with for weeks now, under our system, be it judicial or quasi-judicial, we operate on the basis that any citizen is entitled to take the advice of counsel; that's what the whole solicitor-client privilege matter ^{was} ^{that's} about. And ^{that's} why I would want to record, for Mr. Finlayson, that I as one member of

August 8, 1973
11:05 - 11:10 am
JLP

(Mr. Bullbrook)

the Legislature^{and} and I think that's of paramount importance, that rather trite phrase. But^{we} we're not here as individuals. Mr. Renwick and Mr. Deans, and the Messrs. Hodgson are not here as individuals; we are here representing the people of Ontario. We've been given a job by those people, and all we're saying, in effect, and ~~all~~^{that} that warrant is saying^{is}, the people demand of Mr. Moog that he tells the people all matters that they consider relevant in connection with this inquiry. That's the basis of that warrant.

And the problem that I see for Mr. Moog — I don't attempt to lessen his possible difficulty — but the problem that I see for Mr. Moog is that he's been advised, Mr. Chairman, not to come ~~and~~

~~and give that advice that I think is what I would wish to~~

(Tape H-1770 follows)



August 7, 1973
11.10-11.15 a.m.
M.F.

H - 1770 - 1

(Mr. Bullbrook)

~~Mr. Bullbrook:~~ forward, and it is that advice that I think is what I would wish to, as I say, record as much more significant than Mr. Moog's action, but the advice by his counsel

As far as what you want to do, I want to say to you that it really doesn't make any difference to me individually. If you wish to proceed, the one thing I wouldn't want to see us do, and that is I wouldn't want to see us now adjourn these deliberations without a day. I think Mr. Hodgson's comments are very well taken, Mr. Glen Hodgson's comments, that if we return to the House it might very well be that the House would say that there should be some other forum, and the results of that as far as Hydro and the public are concerned would be undue.

Mr. Chairman: I am glad for the advice of the committee and I am pleased to accept it. I recommended earlier that we should adjourn now and report to the Speaker and, through him, to the government, but I think this is the wiser course and I am grateful for the words of wisdom of the other members. So I am going to adjourn the meeting to August 27th, but before I do

Mr. W. Hodgson: No, No.

Mr. Chairman: Yes, I am coming to that - and that will be the procedure, to adjourn to the 27th, unless now Mr. Finlayson, you are prepared to advise your client Mr. Moog to come forward. Are you prepared to do so, sir?

Mr. Finlayson: No, sir

Mr. Chairman: Mr. Moog, are you prepared to come forward?

Mr. Moog: I think Mr. Bullbrook made it quite clear that I am advised by counsel. Mr. Finlayson has been selected by Mr. Bradshaw and I will simply have to take counsels' word, they know much more about these matters than I do.

Mr. Chairman: All right. Well then I would advise you

August 7, 1975
11.10-11.15 a.m.
M. P.

H - 1770 - 2

(Mr. Chairman)

that in my mind, in my opinion, you are both in contempt of this committee and therefore in contempt of the Legislative Assembly. I won't ask the other committee members to comment other than that they have already done so, and in due course this will be reported to the House.

Mr. Henderson: No, leave it dealt with. Would you leave it that instead of on the records that the committee will deal with it?

Mr. Chairman: Oh yes, yes.

Mr. Henderson: Instead of reporting it to the House?

Mr. Chairman: Yes.

Mr. Henderson: The committee will deal with it?

Mr. Chairman: Well I don't think we have ~~any~~

Mr. Bulbrook: I concur with what the Chairman has said.

Mr. Chairman: ~~That~~ We will report ^{it} to the House. I think that is our ~~intention~~

Mr. W. Newman: Mr. Chairman, I am concerned that we have a full and complete report when we do report back to the House, very much concerned that we do get all the evidence in and with your permission, regarding the fact that I know Mr. Moog is in contempt and that will take its due course, but on top of that, in order to get all the full evidence in when we do come back here, could I ask you if you would ask Mr. Finlayson if his client is prepared to give us the full and complete time at that time?

Mr. Bulbrook: No.

Mr. Renwick: No. *Wait until that time.*

Mr. Henderson: Mr. Chairman, ^{this is} the reason that I would

prefer that you leave it that we will deal with it. I had hopes that at some time later in the hearing - I am not specifying any time - that you would hear Canada Square.

Mr. Chairman: Oh, I am not saying at this time that we

H - 1770 - 3

(Mr. Chairman)

won't hear Canada Square, Mr. Henderson, I don't mean that. All I am saying is that I think we will have to report these circumstances to the House, and I am not saying that this committee can't discuss those circumstances again, but my recommendation is, and I think it should stand as I originally stated, that we will be reporting this to the House.

Now what Mr. Finlayson and Mr. Moog want to do when we ask them again, if we do ask them again, will be up to them at that time. I am not even saying that we will. In my own mind, if we come back, I would assume that we would ask them again to testify, but I think that will be for later consideration of this committee.

Mr. Henderson: Well are you indicating there will be witnesses for us though on the 27th?

Mr. Chairman: Oh yes.

Mr. Henderson: That's fine. Very good.

Mr. Chairman: Absolutely, yes. I am not suggesting yes, because we have a few more witnesses to hear. We certainly have Hydro witnesses, if none other to hear.

Well then we are adjourned, ladies and gentlemen, until 10 ~~thirty~~ a.m. on the 27th of August.

APPEARANCES

Committee members:	J.N. Allan
	J.E. Bullbrook
	I. Deans
	M. Gaunt
	L.C. Henderson
	R.G. Hodgson
	W. Hodgson
	J.P. MacBeth (Chairman)
	W. Newman
	J.A. Renwick
	G.W. Walker
Clerk of the committee:	Paul Moore
Committee counsel:	R.E. Shibley, QC
Assistant to committee counsel:	J.P. Bell
Ontario Hydro counsel:	Pierre Genest, QC
	James McCallum, QC
Canada Square counsel:	Douglas Laidlaw, QC
	Blair Cowper-Smith
	G.D. Finlayson, QC
President, Canada Square Corp. Ltd.:	G.W. Moog

#611

LEGISLATURE OF ONTARIO

SELECT COMMITTEE

HYDRO HEADQUARTERS

Monday, August 27, 1973

Morning session

1971-1799

August 27, 1973
10.05-10.20 a.m.
M.F.

H - 1771 - 1

LEGISLATURE OF ONTARIO
SELECT COMMITTEE - HYDROX HEADQUARTERS

The committee met at 10.05 o'clock, a.m., in the members' board room.

Mr. Chairman: Ladies and gentleman, Mr. Allan has given me the signal that it is time that we should reconvene the sittings after our two and a half week recess, and it is not that I am pleased to do so, but it is my duty to do so, and I now call the meeting back to order and hope that you have all enjoyed some holiday and some rest, at least a change from what we have been going through, and hope that we will now proceed with a little more even temper and a little more expedition. Thank you and welcome back. Mr. Shibley?

Mr. Gaunt: Mr. Chairman, may I -----

Mr. Chairman: Mr. Gaunt?

Mr. Gaunt: May I raise one matter before we start?

I just wondered, in view of the news reports which emanated from the newspapers and radio and TV with respect to one of our colleagues, I just wondered if you have any statement on that matter before we get into the actual testimony?

Mr. Chairman: Thank you, Mr. Gaunt. You mentioned it to me earlier and so did Mr. Henderson. I didn't see the particular letter, I certainly heard some of the news reports and the editorials and things of that nature.

Mr. Bullbrook: You were holidaying in Africa?

Mr. Chairman: No sir, I said I didn't see the letter, but I was trying to keep a pretty low profile during the two weeks.

Mr. Bullbrook: Oh I see.

Mr. W. Hodgson: Mr. Bullbrook got ^{more} publicity than he's had since these hearings started.

Mr. Chairman: But in any event, Mr. Henderson I know

August 27, 1973
10.05-10.10 a.m.
M.F.

H - 1771 - 2

(Mr. Chairman)

has something to say on it.

Mr. Bullbrook: ~~We~~ At least ~~he~~^I was even tempered.

Mr. Chairman: I personally was going to suggest that any matters of that nature we would leave over perhaps to another in camera meeting, but I don't want to have that in camera meeting the origin of something else, so maybe it is best to deal with it right now and, Mr. Henderson, I do think you are prepared to say something?

Mr. Henderson: Mr. Chairman, I have ^{brought} enough copies of this letter and I would ask the Clerk if he would distribute it to the members of the committee.

Mr. Chairman: This is the actual letter that went out?

Mr. Henderson: This is the actual letter.

Mr. Chairman: Mr. ~~Henderson~~ Henderson, I see here that you have got a particular sentence in the third paragraph from the end of the letter underlined and I will just read it:

"When the committee went into camera to ~~consider their future, both the Liberals and New Democratic members expressed the opinion that Mr. Davis had answered all the questions and felt he did exceptionally well."~~

consider their future, both the Liberals and New Democratic members expressed the opinion that Mr. Davis had answered all the questions ~~and felt he did exceptionally well."~~

Now, I think, Mr. Bullbrook, you had some remarks to make on that particular sentence?

Mr. Henderson: Mr. Chairman, I would like to say something if I might.

Mr. Chairman: Fine, if you would, sir.

On

Mr. Henderson: /August 7th, 1973, I sent this letter to the ~~present~~ past executive of the Lambton Progressive Conservative Association, a total of 80. No press releases whatever, just to the executive.

I refer you to paragraph 6, sentence 3, where I make mention of my interpretation of remarks made by the Opposition

August 21, 1973
10.05-10.10 a.m.
M.F.

H - 1771 - 3

(Mr. Henderson)

parties. The balance of the letter refers to my thoughts and activities. The week of August 12th this letter received considerable publicity. Mr. Chairman, January, 1974, will recognize 28 years since my first election to public office in Lambton. During this period I have never misled the people of this big county and plan to continue that practice. I regret any embarrassment that has been caused ^{by} ~~by~~ misinterpretation of this letter.

Mr. Chairman: Thank you, Mr. Henderson. I think it is, Mr. Henderson, regrettable that words or opinions that may be expressed, or have been expressed ⁱⁿ ~~in~~ camera sessions should get out in this way. You have given your apologies for it. It does purport to say what members of the Opposition expressed in private and for that reason I think it was improper, But in any event I say you have already apologized for it so I would hope the committee would see to it ~~that~~ that if we do have any more in camera meetings that we will keep all parts of those in camera meetings in confidence, particularly as far as quoting what any group or any particular person may have said.

Now if anybody else wishes to comment on it the floor is open, but if not -----

Mr. Renwick: Perhaps, Mr. Chairman, if Mr. Henderson would just write to the members of his executive stating that that paragraph of ~~this~~ letter was totally inaccurate, that that might solve the problem for all of us.

Mr. W. Newman: Mr. Chairman, ^{I'm not sure this paragraph} ~~this paragraph~~ is completely irrelevant and wrong, ~~but~~ let's be honest about the situation.

If we want to discuss that here in open session, it is fine by me.

Mr. Chairman: No, I think it would be wise not to compound it by getting into any further discussion as to whether that was said by any one person or any group of people in the sessions.

Mr. Bullbrook: Mr. Chairman, I want to record that I

August 27, 1973
10.05-10.10 a.m.
M.P.

H - 1771 - 4

(Mr. Bullbrook)

know that the people of Lambton County can read the newspaper, and I imagine the most of them have read the newspaper, wherein Mr. Henderson had the courage at the first possible opportunity to set the record straight.

I had told the papers, when they communicated with me originally, that I would move censure against my colleague, notwithstanding a great personal friendship that I have for him, because I regard the matter extremely seriously, and of course Mr. Newman's comments are the very foundation for my concern, because every time something comes out of an in camera session to rebut it, of course, is an offence in itself, because by rebutting it you are revealing what you construe to have gone on at the meeting, but in any event I don't intend to move any censure. I think that Mr. Henderson in his comments has conducted himself admirably in that respect and in saying so I don't denigrate from the position I took that I regarded the original letter as highly offensive, but I think that to circulate another letter ~~is~~ is redundant.

Mr. Chairman: Mr. Shibley, please.

Mr. Shibley: Mr. Chairman, I intend shortly to ask for Mr. Moog to resume the witness box, but before doing so there are two witnesses that I must call for a few minutes each. By reason of difficulties emanating from my efforts over the past week to interview them and -----

Tape H - 1772 follows

Aug. 27/73
10:15 - 10:20 am.
M.S.

(Mr. Shibley)

...by reason of difficulties emanating from my efforts over the past week to interview them, and to receive any documents in their possession.

Perhaps, by way of explanation, Mr. Bell, who made the communications on my instructions, will advise the committee what has gone on. The two gentlemen in question are Mr. Lorne Mitchell and Mr. Bob Tamblin of Tamblin Mitchell, who are the consulting engineers, I think is a proper description, respecting the mechanical electrical installation for this building; and respecting whom, I had hoped to ~~meet~~ ^{meet} within the past week to discuss their evidence and to review the documents in their files. I would like, for the moment with your permission, sir, to turn the matter over to Mr. Bell to tell you the communications he had. Then I intend to call each of these men to the witness box to explain why they failed to ~~meet~~ ^{meet} with me, and also require them to produce their file, which I have not yet, to this moment, seen.

I then intend to excuse them, because I wouldn't be ready to proceed with their examination in any event without having had at least the benefit of examining their file, and then recall them at a later date.

Mr. W. Newman: Mr. Chairman, a question before you turn it over to Mr. Bell. Do you want to call Mr. Tamblin and Mr. Mitchell re the electrical installations?

~~Mr. Shibley~~ Mr. Shibley: I want to call them, Mr. Newman, because they ~~have~~ ^{have} said to me, I think perhaps I can deal with it myself. What happened is that appointments were scheduled for me to meet with each of these men during the early part of the last week. Mr. Bob Tamblin, although still connected with the firm, is on his own, so to speak, but they were both material witnesses and could have been helpful in explaining that facet of the building which looms very large - namely, the mechanical portion.

Appointments were actually made with ~~him~~ them and they, subsequently, cancelled those appointments. Mr. Mitchell advising Mr. Bell that he was cancelling because he had instructions from his client, namely, Canada Square, that he was not to meet with us independently of any attendance with Mr. Finlaysen ~~and~~ and/or, I suppose, somebody from Canada Square.

Now, I intend first to call Mr. Mitchell to make that clear, and to ask him to produce his file. I ~~want~~ will then have the file put in as an exhibit. He has no ~~more~~ right to withhold it and I am going to discharge him temporarily while I then have at least a chance to read the file.

1891-1892


Mr. Shibley: I might say that our clerk, Mr. Moore, had similar conversation with Mr. Mitchell, I believe, and also

H 1772 - 3

Aug. 27/73
10:15 - 10:20 am.
M.S.

(Mr. Shibley)

with Mr. Tamblin, much to the same effect as I have indicated.
But they can tell their own story.

So that, Mr. Chairman, having given you that preliminary
explanation, I would like to call Lorne Mitchell to the box.
I explained it only in order to avoid any ~~misunderstanding~~ 

Tape H 1773 follows

August 27, 1973
10.20-10.25 a.m.
M.F.

H - 1773 - 1

(Mr. Shibley)

~~call Lorne Mitchell and ask him to come in. At this in~~
~~order to make this idea that we are going to spend a lot of~~
time with him now. It is just -----

Mr. W. Newman: That is what I want to get clear in
my mind, Mr. Chairman, it is just a preliminary situation for a
very short period of time?

Mr. Shibley: It is just to get over the - yes!

Mr. Chairman: ~~Just so~~ Just so
Mr. Shibley can obtain the files, that is all.

Mr. Renwick: Mr. Chairman, on another matter, before we
proceed with the matter to which Mr. Shibley has referred, I would
ask the Chairman whether he would ask if there are any counsel
in the audience representing any person or association not disclosed
to the committee?

Mr. Chairman: Yes, well I see one or two new faces. Are
there any -----

Mr. Finlayson: This is Mr. Rice of my firm, Mr.
Chairman, who is replacing Mr. Cowper-Smith, who decided to go
into real estate.

Mr. Chairman: He may live longer, he may not get
the notoriety. Are there any other new counsel in the room
this morning? Fine. Thanks, Mr. Renwick, for that suggestion.

Well then it is Mr. Mitchell you wish first? Mr.
Mitchell, if you would come forward please sir?

Mr. Mitchell: Where would you like me to sit?

Mr. Chairman: If you would just come to the front table
where the Bible is awaiting your right hand.

LORNE STRACHAN MITCHELL, sworn

Mr. Shibley: Mr. Mitchell, with what firm are you
associated?

Mr. Mitchell: Mr. Shibley, I am the president of
Tambllyn, Mitchell and Partners, Limited.

H - 1773 - 2

Mr. Shibley: Yes, and is that firm in any way retained respecting the Ontario Head Office building, the Hydro Head Office building?

Mr. Mitchell: Yes, we have a contract with Canada Square to design the mechanical requirements only, not mechanical-electrical, for the new head office building.

Mr. Shibley: Yes; and among the material that has already been tabled with this committee, as part of an opening statement of Mr. Moog, is a letter from your firm dated July 5th, 1973, respecting the costing of the mechanical installation for this building. It is appendix B to Mr. Moog's opening statement. I think you are familiar with the letter in question, are you not?

Mr. Mitchell: Yes, I believe I am, Mr. Shibley.

Mr. Shibley: Now then, Mr. Mitchell, had you an appointment to meet with Mr. Bell and I earlier last week?

Mr. Mitchell: If I can just refer to my book on that?

Mr. Shibley: Surely.

Mr. Mitchell: I believe it was on Thursday, August 16th, that I had my first conversation on the phone with Mr. Bell; and it was at that time that I told him that I would be pleased to be available as a witness at the hearing and I would also be pleased to discuss any questions or concerns that they had about the mechanical for the building, or the building that was designed by the Adamson group.

Mr. Shibley: Yes.

Mr. Mitchell: I believe that after making that statement, and I did volunteer some information concerning the engineers and partners in our firm that had ~~assumed~~ responsibilities in those two projects, that Mr. Bell asked me if it would be possible to meet with myself, Mr. Swiderski, who is my partner and engineer in charge of the present project, and also Mr. Olsen, who was my partner and engineer in charge of the Adamson design project.

10.20-10.25 a.m.
M.P.

H - 1773 - 3

(Mr. Mitchell)

I subsequently had conversations with the Canada Square people and their instructions to me, and of course our contract is with them, was not to have any meeting with you without their lawyer in attendance, or some arrangement that would meet that particular statement, and I said that I felt that I should honour that instruction, although I was looking forward to coming down here, I had nothing to conceal and I was quite prepared to talk about all the details in the job.

Mr. Shibley: You had, in fact, an appointment for Tuesday of last week at three o' clock which was cancelled?

Mr. Mitchell: I believe that is substantially correct. Mr. Bell said that between two and three he was interviewing people and I said that I could speak for myself, that I could be there, but two other people were on holiday^s and I could not speak for them.

Mr. Shibley: And were you subsequently asked if you were unable to meet with us, were you asked to produce your file in any event?

Mr. Mitchell: Yes, I believe that on Thursday the 23rd, which was one week later, Mr. Bell phoned me and said that he would like to have the file and wanted my opinion on the file,

~~and I subsequently phoned him and said~~

Tape H - 1774 follows

August 27, 1973
10.25-10.30a.m.
B.A.

H-1774-1

(Mr. L. Mitchell)

~~One week later Mr. Bell showed me and said that he would like to have the file and my opinion on the file.~~ and I subsequently phoned him back and said substantially what you have, Mr. Shibley, that the file would have to be treated the same way as the interview.

Mr. Shibley: So that again, aside from your personal attendance for an interview, you were under instructions not to produce your file.

Mr. L. Mitchell: Those were my ~~own~~ instructions.

Mr. Shibley: And the client to which you are referring is who?

Mr. L. Mitchell: The client that I am referring to is Canada Square.

Mr. Shibley: Have you your file with you this morning?

Mr. L. Mitchell: Yes, I brought down my complete correspondence file on the Ontario Hydro project.

Mr. Shibley: Mr. Chairman, I am in this curious position that the only formal way that I can get possession of the file, unless witnesses are able to co-operate, is to call ^{them} ~~ask~~ as a witness and make the ~~whole~~ ^{ask} whole file an exhibit, and that is what I must now be done with this ~~a~~ particular file. I don't know what is in it; I haven't seen it; I don't know how much of it is relevant and I am in the impossible position of being unable to select from it those portions of the document ~~and~~ which are relevant and material, But if the position I am in is that the only way that I can get access to the file is in this very formal way, then I must ask the committee to have the whole file made an exhibit at this time.

Mr. Chairman: Thank you, Mr. Moore, if you would get the file please.

Mr. Wm. Newman: Mr. Chairman, I have a question, I am sorry, I know you want to be short on this, but the question that

Aug. 27/73
10.25-10.30a.m.
B.A.

(Mr. Wm. Newman)

concerns me, and I would like to ask Mr. Mitchell if I may, Mr. Chairman, is there anything in this file regarding the mechanical portions, and I know nothing about this sort of thing, that would be confidential, that might be an advantage to Canada ~~Map~~ Square firm as opposed to another firm? I have heard them talk about all kinds of special kinds of air-conditioning, and so on, and so forth, and which I am not familiar with. Are these patented things that Canada Square has, that if these were made available your file would create a problem?

Mr. Mitchell: I think that Canada Square would be best to answer that question. My opinion would be that there would be nothing in our file that would interfere with that kind of confidential information.

Mr. Chairman: Thank you, Mr. Moore, ~~and~~ I would ask that the file be given the number of 201. I don't think we would make copies of any of this material until you had an opportunity of examining it, Mr. Shibley.

Mr. Shibley: No. Mr. Chairman, I would now ask the committee to consider the propriety of counsel for Canada Square taking the position, if he does, and I am not sure that he does because the instruction, as I understand, ^{from} came from the client, but I want to know now, am I still going to be under the restraint ~~that~~ that I am unable to interview Mr. Mitchell without participation on the ^{part} of Canada Square or its counsel? I think Mr. Finlayson was away, I might say, last week, and I think part of the week before, but at least last week, so I don't want you to suggest that it was necessarily his position, but I would like to know now, because if I am to fly blind, so to speak, review the file of Tamlyn Mitchell and other witnesses in similar circumstances, then I am going to have to conduct an investigative ~~type~~ type of examination of each such witness, whereas, with prior opportunity ~~or~~ for consultation, so much could be eliminated.

Aug. 27/73

10.25-10.30a.m.

B.A.

Mr. Chairman: Do you ~~have~~ have any comment on that

Mr. Finlayson?

Mr. Finlayson: Mr. Chairman, I ~~say~~ ^{should only} say that I knew nothing about this until Mr. Shibley raised it this morning. ^{Mr. Shibley I thought so.} Mr. Moog left to leave the country a couple of weeks ago and I left about 10 days* ago and I didn't get back until late Saturday night, and I didn't see Mr. Moog until yesterday ~~after~~ afternoon and I didn't know anything about this then, and I just heard about it today. ^{but} I left instructions with everybody at Canada Square not to talk to anybody and not to produce anything while I was away. Now, apparently, somebody was a little more ~~overly~~ overly zealous in interpreting those instructions, and it certainly was not intended to apply to people like Tamblins. ~~and~~ I have no objection to Mr. Shibley interviewing these people at all; I have no control over ^{them} ~~the~~. They are independent agents ~~as~~ as far as I am concerned and I think that it was just a misunderstanding arising out of my ~~instructions~~ instructions and I think, quite properly the concern that Tamblyn had of violating a possible confidence with a client.

Mr. Shibley: Well, that saves a lot of trouble, and if we can have it as a matter of record through you, ~~Mr. Finlayson~~ Mr. Finlayson, that Canada Square, as a client of Tamblyn Mitchell

(Tape H-1775 follows)

H-1775-1

(Mr. Shibley)

~~Mr. Finlayson that Sandra Sunico was a client of Tamblin Mitchell~~
now authorizes and instructs the representatives of that firm to meet with me privately to discuss their evidence. That as I say saves a lot of effort.

Mr. Finlayson: I agree with that.

Mr. Chairman: Thank you. Now does that mean you don't need to call Mr. Tamblin?

Mr. Shibley: I don't need to call Mr. Tamblin. I am presuming he will act on those instructions.

Thanks Mr. Mitchell, I'm sorry to have had to bring you down.

Mr. Mitchell: Thank you, Mr. Chairman.

Mr. Chairman: Thank you Mr. Mitchell.

Mr. Shibley: Call Mr. Moog, please.

Mr. Chairman: Welcome back, Mr. Moog. You were sworn when you were here some many weeks ago and that oath is still in effect. I hope ^{we} will now be able to proceed with your evidence all at the one time.

Mr. Shibley: Mr. Moog, I want to direct your attention to your opening statement which was tabled before this committee.

Mr. Bulbrook: I'd better say something here. I recorded this before, but I want to record for myself, notwithstanding the desire to continue the equanimity that prevails at the moment, but I don't regard the giving of evidence now by Mr. Moog as any purge of his contempt of your order at the last meeting. I just want to reiterate that.

Mr. Chairman: I think we made that clear before. I have not reported that to the Speaker of the House yet. I did consult with the clerk of the House and the suggestion was it might be reported when the House first reconvened, and that is where that matter presently stands.

Mr. Shibley: I refer you, Mr. Moog, to page 15 of your opening statement wherein you proceed to deal with the mechanical system referable to the Hydro building. You will note that with respect to the mechanical system under A, you referenced the

August 21/73
10:30- 10:35 am
CA

H-1775-2

(Mr. Shibley)

Canada Square VVR air conditioning system as per cost, as per letter from Tambllyn Mitchell dated July 5, 1973, royalty or other charges \$7.50 per square foot. You compare that with the Y and R system at \$5 a square foot and set out a differential of \$2.50 per square foot, which in the case of a building of this dimension ~~is~~ represents a difference in overall cost of - it would be what ~~1~~^{times} 1,300,000 square feet ~~\$~~ \$2.50? Is that correct.

Mr. Moog: That would be right.

Mr. Shibley: So is it correct to say that to a very large extent you view the difference in the cost of the mechanical system for this building to represent the difference in cost between this building and buildings that were being proposed by the other developers?

Mr. Moog: It would represent a major factor.

Mr. Shibley: In fact it represents the major factor?

Mr. Moog: The single most important factor, yes.

Mr. Shibley: Yes. And again I refer you to the very next page on paragraph 54. wherein you say:

"Thus, of the apparent difference in rental rate of 42¢ per square foot, 30¢ per square foot is explained by the superior mechanical system and curtain wall." Is that correct?

Mr. Moog: That would equate the 30¢ a square foot; the difference in mechanical. Yes.

Mr. Shibley: Well to be fair to you it is both the mechanical and the curtain wall which you say represents 30¢ additional, Is that right?

Mr. Moog: Right. I was just trying to equate this letter, what was presented to the committee at that time.

Mr. Shibley: Yes.

Mr. Moog: There are other factors, but these are important ones.

~~Mr. Shibley: Right. Now when you talk about the same.~~

H-1776-1 follows

Aug. 27/73
10:35 - 10:40 am.
M.S.

~~but these~~

Mr. Shibley: All right. Now then, again, in the same opening statement you also make reference, on page 18 paragraph 60, to a report of Hanscomb Roy. And you'll notice the second sentence towards the bottom of that page 18; "In order to demonstrate this point, I make reference to a recent report which has been prepared for Hydro by Hydro's consultants, Hanscomb Roy. Even though there are a number of items with which we disagree as being estimated too low, we will for the purpose of this exercise accept their cost estimate, which is an estimate of actual construction costs of the structure alone - \$37,499,000 . "

And then you break it out. Is that correct?

Mr. Moog: That's right.

Mr. Shibley: Now then, when you first computed the cost of this building, did you have in mind the type of mechanical system that is referenced in your opening statement? The one, as I say, which is dealt with in paragraphs 53 and 54.

Mr. Moog: I believe that we did, yes.

Mr. Shibley: Yes. That's not a system that you at any time changed in terms of design from the time of your submission right straight through you intended that type of system to be installed. Is that correct?

Mr. Moog: We believe that that is the best air conditioning system available on today's market.

Mr. Shibley: No. Mr. Moog, my ^{only} ~~question~~ question is when you made up your \$34 per square foot calculation --

Mr. Moog: That was part of it.

Mr. Shibley: That was part of it.

Mr. Moog: Yes.

Mr. Shibley: That very system that we're still talking about being installed? Is that correct?

Mr. Moog: Yes, I believe so.

Aug. 27/73
10:35 - 10:40 am.
M.S.

Mr. Shibley: So that you anticipated from day one that you were going to put in what you considered to be a more elaborate system and that its cost would be as much as indicated in this material, \$7.50?

Mr. Moog: Yes, I would say at least as much as that.

Mr. Shibley: Yes. I ask you, just while we're at this same document, I just want to understand a few more things before we get underway, Mr. Moog. You mention on page 19 certain other facts. At the ~~top~~ top of the page, this is part of paragraph 60, you say, "The further costs attributable to this project are Architects, engineering and all other consulting fees - 8%, \$2,984,000."

Now, I would like your explanation of that. I had understood that you had in-house people doing this, but you were also working in conjunction with an outside firm. Would you please explain to whom that \$2,984,000 ~~was~~ intended to be paid?

Mr. Moog: Well, \$2,984,000 would represent the normal cost for any developer to undertake this project. Our own arrangements which we have with our own architects, I believe, are our own trade secret, if you wish, we will pay our outside consultants whatever their fees are, which include such people as Gordon S. Adamson, Tamlyn Mitchell, the electrical engineers, the ~~structural~~ structural engineers and so on. And we believe that 8% represents a good buy to any developer undertaking this type of project. We always have outside consultants.

Mr. Shibley: I think it is important for the committee to know what portion of that, let's call it \$3 million, is to be paid to outsiders and what portion of it is to be retained by Canada Square.

Mr. Moog: I don't think we have a breakdown of that yet, Mr. Shibley.

Aug. 27/73
10:35 - 10:40 am.
M.S.

Mr. MOHR: No, we have not. We are paying them on

Mr. Shibley: What is the amount you are paying

Mr. Moog: I wouldn't know at the moment.

1777
Tape H ~~1k777~~ follows

H - 1777 - 1

~~paying them on a percentage basis.~~

~~Mr. Shibley: What is the contract for paying?~~

~~Mr. Moog: I wouldn't know at the moment.~~

Mr. Shibley: I see. So it is not a percentage fee basis arrangement with them, it is however much time they spend on a project.

Mr. Moog: That's right.

Mr. Shibley: Well what have your costs been to date with Adamsons?

Mr. Moog: I wouldn't know off hand.

Mr. Shibley: Well would you please undertake to inform yourself as to that and we will get to it again later?

In any event it is clear that Canada Square expects some residue of that three million dollars to remain as part of its own payment? Is that correct?

Mr. Moog: I don't know what you mean by that.

Mr. Shibley: Well when you come at the end of this project to deal with the problem of appraised value of the project, you intend to include as an item in that appraisal a fee of eight per cent totalling three million dollars. Is that correct?

Mr. Moog: Approximately, yes.

Mr. Shibley: And that part of that three million will be retained by Canada Square, it won't all have been paid to Adamsons?

Mr. Moog: Not all to Adamsons, no, but it will be paid to the other consultants as well.

Mr. Shibley: Yes. I see.

Mr. Bullbrook: No, I don't see there, I want to understand this fully, if I may. Are you saying in effect, sir, that this isn't a hypothesis, that you will be paying out to outside experts about approximately three million dollars?

Mr. Moog: Not to outside experts, to all consultants.

H - 1777 - 2

Mr. Bullbrook: Well then I must understand this fully.

Could we have a consultant who is an in-house consultant?

Mr. Moog: ^{Well} ~~Um~~ I have a special arrangement with the architectural firm of K. R. Cooper, which has worked with us on every major project we have undertaken. In addition to whom we also consult outside consultants, and the arrangement between Cooper and ourselves we have kept confidential to this date.

Mr. Bullbrook: Well what causes me concern, if I may, when I listened to and read your opening statement, I didn't think you were hypothesizing here. You said - and I am reading from page 19, Mr. Moog:

"The further costs attributable to this project are as follows", and I thought you were saying to us that these are established costs that Canada Square has over and above the actual cost of construction itself, and I took it when I read "architects, engineering, and all other consulting fees - eight per cent" that there was no portion of that eight per cent which would be returnable, either directly or indirectly, to benefit Canada Square financially.

Mr. Moog: I don't really know what you mean by benefit, Mr. Bullbrook. We are keeping an architectural firm with us and have for many, many years, which we are paying whether there is work or whether there isn't work. It is very difficult to pull this apart. All I am saying here is that the ~~proper~~ ^{attributable} fees applicable to this project, all fees would be eight percent, and I think that could easily be verified. Whether we pay out that exact amount at this job or whether we spread it over other periods, really is quite immaterial. This is the cost.

Mr. Bullbrook: Mr. Shibley, are you able to listen?

Mr. Shibley: I am sorry.

Mr. Bullbrook: I think it is important that you do.

Mr. Moog just said whether it is attributable to this job or not they will include it. Now this is what concerns me. *MM*

H - 1777 - 3

(Mr. Bullbrook)

As I read this, Mr. Moog, and do you have page 19 in front of you ?

Mr. Moog: Yes, I do.

Mr. Bullbrook: I read this to mean that the actual cost to Canada Square in connection with this project to Canada Square with respect to the construction of that building would be approximately \$37,499,000. Do you follow me? In connection with the construction itself and all in-house burdens.

Now, I then presumed that the three million dollars - \$2,984,000 - were costs that you would be paying out to other people relating only to this project.

Mr. Moog: These are the costs which anybody in our business would have to pay. That's what I am saying.

Mr. Shibley: That doesn't make it clear, Mr. Moog, because, Mr. Bullbrook, I think what the witness is saying is that eight per cent for architectural fees would be normal for anyone to pay.

Mr. Moog: That's right.

Mr. Shibley: But in this instance those architectural fees are being shared by Canada Square to the extent that it is not required to expend them in the retaining of outside experts. Is that not so?

Mr. Moog: Perhaps not, perhaps so, I couldn't tell you at the moment.

Mr. Shibley: It depends upon how much you have to pay your outside experts.

Mr. Moog: It depends on that and it depends how much our own people will have to pay, and it depends on how long I would have to carry out own people until another job comes about. It is an equitable and fair fee for consulting work, the amount of eight percent, that is what I am saying.

H-1778-1 folio

Aug. 27/73
10.45-10.50a.m.
B.A.

H-1778-1

~~and the fee for consigning work, the amount of eight per cent~~
~~that is the amount of eight per cent~~

Mr. Deans: Not necessarily all attributable to this building. That is what Mr. Bullbrook
Mr. Moog: *Mr. Deans: Not necessarily! (Mr. Moog)* Perhaps and perhaps not. Not necessarily, right, Mr. Deans.

Mr. Allan: Mr. Chairman, isn't it correct to assume that without any calculation at all, that Mr. Moog is saying that if he had no one within his ^{firm} ~~firm~~ that the fee for the architectural work in connection with this building would be eight per cent?

Mr. Moog: Mr. Allan, that's right. That is what I am trying to say.

Mr. Chairman: That is the standard architectural fee as I understand it.

Mr. Allan: Yes, that is what I am trying to say.

Mr. Moog: For all ^{ult} ~~consulting~~ work, not just architectural consultants. All ~~consultants~~ These include many more than just engineers. We have outside consultants, whoever can help us on this job, who are all included in this eight per cent amount. They include graphics consultants, they include whatever we run into any difficulties ~~we~~ with. I think eight per cent is a very reasonable amount.

Mr. Allan: Well, it is the usual amount.

Mr. Moog: It is the usual amount, absolutely.

Mr. Deans: Can I ask a question? How would Ontario Hydro, then, be able to tell whether the cost levied against them was a fair cost? Would they get a breakdown of all the monies spent by Canada ~~Square~~ Square for consulting purposes?

Mr. Moog: It is the cost which is paid in the market for consulting purposes, the normal costs. You buy ~~and~~ a house and the legal fees on a \$10,000 house are, to close that ~~house~~ house, \$200,

Aug. 27/73
10.45-10.50a.m.
B.A.

(Mr. Moog)

that's ~~what~~ ^{What} it is. Now, if you get a friend to do it for \$20 ~~well~~, it still costs normally \$200 to close a \$10,000 house deal, that is what I am saying.

Mr. Deans: May I ask you, I seem to recall - I haven't got it in front of me - but I recall that there was an arrangement whereby Hydro could more or less audit the books in order to....

Mr. Moog: No, we never said that.

Mr. Deans: ~~That~~ That was not true with Canada Square?

Mr. Moog: No, sir.

Mr. Deans: ~~Okay~~ Okay, that's what I wanted to find out. So that they have no entry to the books at all.....

Mr. Moog: None.

Mr. Deans: And they simply pay the price that you determined.

Mr. Moog: Well, the price that is ~~more~~ equitable. The price which is, the appraisers will determine the price. The market will determine it. That is what they are saying.

Mr. Deans: Okay.

Mr. Wm. Hodgson: Was that audit of books, Mr. Chairman, set out by was that a requirement of Hydro that they had the privilege to audit the books, was that a condition with other firms?

Mr. Moog: No.

Mr. Bullbrook: One of the other firms, I believe it was Ellis- Don, offered it.

Mr. Shibley: ^(Ellis-Don) offered it.

Mr. Hodgson: But that wasn't a requirement.

Mr. Moog: That was not our deal.

Mr. Shibley: I just want to carry on, I won't deal with the legal fees, I will go on.

Mr. Moog: They are low, by the way!

Mr. Shibley: I want to talk about your interim financing, can we call it close to \$7 million. I must tell you that there was a memorandum. I am not sure whether it was prepared by Hydro or Hanscomb Roy, but it was in both files. It is dated December 6, 1972.

Aug. 27/73
10.45-10.50a.m.
B.A.

(Mr. Shibley)

Wherein - and the photocopies are on their way down but they computed, there was a computation made of interim financing which came to \$4 million, and this was based on an average of \$20 million at 10 per cent per annum over two years, that \$4 million being the total cost of interim financing. As I say, as soon as that document is in hand I will show it to you, but I am concerned at the moment to know, Mr. Moog, on what basis Canada Square computes its interim financing at close to \$7 million respecting a building that it expects to complete in three years.

I believe

Mr. Moog: Appendix "C" gives you a breakdown, Mr. Shibley.

Mr. Shibley: Now, in that connection, Mr. Moog, is it not a fact that the expensive portions of ~~the~~^a building under construction are the portions that are installed latterly, that is to say, towards the latter part, towards the completion stage of the building?

Mr. Moog: You will see that in this breakdown, as the job goes on, the draws increase and so do the interest payments.

Mr. Shibley: Well, what I am driving ~~at~~^{at} is my information is that it is the equipment and the finishing, and so on, that takes part towards the latter part of construction, that costs most, and would require the.....

~~Mr. Moog: I understand how you run a job.~~

(Tape H-1779 follows)

H-1779-1

~~Mr. Shibley~~

~~And would require the~~

Mr. Moog: Depends how you run a job. We have ordered a lot of equipment ahead of time in order to get delivery when we need it. We have got a lot of specially produced equipment which we wouldn't get delivery of unless we make advance payments. There are various ways of dealing with this.

Mr. Shibley: I am only interested in this particular job.

Mr. Moog: Yes, that is what we have done on this particular job ~~the~~ too.

Mr. Shibley: Well I should tell you that I'm basing my question to you on a comment made to me by Mr. Rasmussen of ~~Hanscomb~~ Hanscomb Roy, that the interim financing costs are affected by the timing of the installation of the expensive items in a building, and that a very large portion of ^{such} expensive items is installed latterly; ~~that~~ this towards the completion of the building. Now for example the tiling of the equipment, the ceilings, these things would all go in within the last ~~the~~ phase of construction, would they not?

Mr. Moog: I haven't discussed their estimates with ours. This is the best, to our knowledge, a correct breakdown which was done by our people, and I believe it ~~was~~ even done at an interest rate which we couldn't get money today any more at anyway. So I believe, if anything, this is probably conservative.

Mr. Shibley: What concerns me is the two things; the information I have presented to you and also, as I say, the calculation ~~and~~ and I suspect it was made by Hydro; it is a memorandum of December 6 ~~when~~ when they estimated interim financing at 10 per cent should run to \$8 million. The \$3 million disparity is something that is worth talking about. Have you seen that memorandum?

Mr. Moog: I don't believe I have.

Mr. Shibley: I see. I'm sorry it isn't yet ready. In any event, are you intending to produce to Hydro at the completion of this project, particulars as to the actual cost of your ~~interim~~ interim financing?

Mr. Moog: No we are not.

H-1779-2

Mr. Shibley: You are not going to permit Hydro to look at your books?

Mr. Moog: No.

Mr. Shibley: In fact, Mr. Moog, you have already made it clear to Hanscomb Roy that you are not intending even they to look at your books of record referable to the cost of material and services installed in this building, isn't that so?

Mr. Moog: That is right.

Mr. Shibley: And in fact, Mr. Moog, you didn't even give Mr. Rasmussen of Hanscomb Roy the benefit of the specifications that you were laying down for subtrades.

Mr. Moog: Oh, I'm not sure that that is the way you are presenting that Mr. Shibley: I don't think that our specifications for subtrades were probably available when they wanted those. I think what we have asked for we certainly do hand out.

Mr. Shibley: But you are not intending now or hereafter, nor have you to this time provided to Hanscomb Roy particulars as to your costing for the various trades and the various areas to be incorporated in this building, and neither have you given them the specifications.

Mr. Moog: Well I'm not sure at all about the specifications. I believe that whenever we have specifications finished ^{and} we go out for bid, they can see what we are asking for. As a matter of fact Hydro would like to know too, so that part I don't understand. I am at a loss to follow you on that.

Mr. Shibley: All right. Let's talk about costs. Are you now prepared to let Hanscomb Roy know as you go along what is the actual cost of installing work or material in this building?

Mr. Moog: No.

Mr. Shibley: And neither do you intend to provide them with that kind of data at the conclusion of the job.

Mr. Moog: That is right.

Mr. Shibley: So they are left completely to their own resources in attempting to establish the cost of construction.

Mr. Moog: That is right.

August 27/73
10:50 - 10:55 am
CA

H-177903

Mr. Shibley: And you now tell us that you similarly have no intention of affording them the opportunity to examine your books of record as to your actual cost of interim finance.

Mr. Moog: That is correct.

Mr. Shibley: You are simply going to present a figure to them respecting cost ^{of} ~~to~~ finance and ask them to accept it.

Mr. Moog: No, we don't ask them to accept it. We give them our estimate.

Mr. Shibley: Yes.

Mr. Moog: And that is all that we have at the moment. And they make up their estimate.

Mr. Shibley: I am talking about at the completion of the job, are you ~~not~~?

Mr. Moog: We are not going to open our books to anybody.

Mr. Shibley: Aside from opening your books, you are not intending to tell them what ^{your} ~~the~~ actual costs of financing were.

Mr. Moog: No, we are not.

Mr. Shibley: Nor your actual cost of constructing this building.

H-1789-1 follows

Aug. 27/73
10:55 - 11:00 am.
M.S.

~~the building?~~

~~... what your actual duty of financing were.~~

~~... No, we are not.~~

~~... the building?~~

this building?

Mr. Moog: That's right.

Mr. Shibley: Of course, Hanscomb Roy are the people designated by Hydro as their agents to attempt an evaluation of this building for purposes of that term of the contract, whereby if the building has an appraised value of less than \$34 per square foot they are to get an adjustment in rental. You know that.

Mr. Moog: Well, I'm not sure who that will be at the end. At this moment we know that Hanscomb Roy are doing an estimating job. That's all we know.

Mr. Shibley: And you know -- well, have you not been told that Hanscomb Roy are the persons designated by Hydro in that respect? That it is Hanscomb Roy who are intended to do ten or twelve interim reports and a final report to Hydro as to the cost of this building?

Mr. Moog: I don't know whether they will be the final appraising firm or not. That I do not know.

Mr. Shibley: I see.

Mr. Moog: I do know that they are working on this, yes.

Mr. Shibley: Yes.

Mr. Bullbrook: There is some confusion in my

mind there. Go ahead, Mr. Allan, because maybe you have something --
~~information.~~

Mr. Allan: Well, I was just going to ask if at some stage we couldn't have clarified the basis for determining whether or not Hydro get a rebate or a lower rental; or whether it's the cost of the building or the appraised value of the building.

Aug. 27/73
10:55 - 11:00 am.
M.S.

Mr. Shibley: Mr. Allan, that's a topic unto itself that I will be dealing with in depth.

Mr. Bullbrook: That wasn't my concern, if I may say. A very valid concern, but this becomes the crunch. Because we're talking about the question of value as opposed to cost.

Mr. Shibley: We will get to that in itself.

Mr. Bullbrook: No, I know.

Mr. Shibley: At the moment I just wanted the committee to understand that ---

Mr. Bullbrook: Hanscomb Roy have nothing to do with the appraisal, the ultimate appraised value, do they? I thought they just had ---

Mr. Moog: No.

Mr. Shibley: Well, I'm sorry, Mr. Bullbrook, I think that Hanscomb Roy, as we will see shortly, have compiled a series of reports already, and intend to continue to do so, which make up the breakdown of the cost as they see it to this building. And it's been the subject of some discussion and debate.

Mr. Renwick: Mr. Chairman, perhaps Mr. Shibley could help me. I have in front of me amongst the contract documents, the letter of October 18 from Canada Square to Hydro, stating in the second paragraph, "As arranged we are writing to you to confirm the agreement reached between us. That prior to the execution and delivery of the building lease Canada Square shall have required so to do by Ontario Hydro, retain the firm of Chaffey, MacKenzie and Ray Limited, or if it is unable or unwilling to act, such other appraisal firm with MAI qualifications as may be agreed upon by Ontario Hydro and Canada Square to appraise the project."

Do I take it that Hanscomb Roy are now, in fact, the appraisal firm which has been designated for that purpose?

Aug. 27/73
10:55 - 11:00 am.
M.S.

Mr. Shibley: They, Mr. Renwick, are an appraisal firm that Hydro has retained to cost control this project, I believe. In the sense that as the project goes forward, that they will, on a continuing basis, evaluate the cost of work, material and services supplied to this project. Whether they themselves are going to be the appraiser I doubt that, but certainly it's going to be a very material part of Hydro's information upon which it presents its case, so to speak, to have the Hanscomb Roy figures.

Mr. Renwick: Well, Mr. Chairman, perhaps we could ask ~~Hydro~~ a representative of ~~Hydro~~ Hydro now to let us know whether or not Hanscomb Roy are going to make the appraisal. Or, if not, what their association with whoever is designated as the appraiser will be.

Mr. Genest: Yes. Mr. Chairman, Hanscomb Roy are expert quantity surveyors, whose primary task it is to calculate the value of what's going into the building. Their input is for Hydro's primary use. We expect that the figures that they have ~~developed as to the value of the building~~

Tape H 1781 follows

Ms Genest:

H-1781-1

~~Mr. Genest: We expect that the figures that they have~~
developed as to the cost will form the basis of the opinion of the appraiser named in the contract letter, but ~~that~~ of course that appraising firm is not bound to use them. Their function is primarily to let Hydro know what kind of values are going in to that building from the sort of bricks and mortar point of view. It is their function to appraise that, as I understand it, from the point of view of not what are Mr. Moog's costs but what is the normal cost of what is going into that building if we had to buy it on the market. Is that helpful?

Mr. Shibley: I think it will become clear;

Mr. Renwick: But they will not be the appraisal firm.

Mr. Genest: No.

Mr. Renwick: Under any circumstances.

Mr. Genest: Well I don't think they hold themselves out as appraisers. They are quantity surveyors. They appraise a part of that project. ~~There are~~ other parts like interim financing, architects' ⁱⁿ fees, which they do not have an input.

Mr. Renwick: Thank you, Mr. Chairman.

Mr. Shibley: Mr. Moog, as I indicated earlier, you referenced one such report of Hanscomb Roy. In fact there were three such reports compiled to this date. Is that not correct?

Mr. Moog: I am not sure that that is so, but I am told that there were various reports. I've only glanced at one.

Mr. Shibley: Have you seen these reports?

Mr. Moog: I have only glanced at the one we are referring to here.

Mr. Shibley: I see. Well then I would like produced the first report of Hanscomb Roy. I'll prove this formally through Mr. Rasmussen, who will be giving evidence. But I want the report of April 25, 1973, of Hanscomb Roy made the next exhibit if I may, Mr. Chairman.

I might tell you, Mr. Moog, that what I intend with you, and members of the committee, is to have the three reports exhibited so that we may have them available for comparative purposes. But we will start with the first one which was, as I say, dated April 25, 1972

H-1781-2

Mr. Chairman: That will be exhibit 202.

Mr. Shibley: Because these are important documents I want to explain to the members of the committee how they are structured. I hope you won't panic to think I am going to go through every figure in them, but certain of the figures are salient. But the way these things are structured is that in the first pages you will see the elemental breakdown of items - in this case into twelve categories, starting with substructure, and so on. Then you will see at the upper right of that summary, sheet number 1. Then when you get further in what is the balance of ~~the~~ material within this folder is the supporting material, so to speak, for element number one, substructure; element number two. You will find pages marked 2a, 2b, 2c, which relate to the items of the face page; ~~the~~ structure, 2a would be 'lowest for construction' and so on; if you follow me. You will notice that as per the first report taken off by Hanscomb Roy that the breakdown of the items in that report come to a total, inclusive of a contingency allowance - which is item 11 on page 2 - of \$3 million; that is an allowance for items not yet identified, or in the event that some of the items ~~are~~ already identified are more costly than indicated, that even with that allowance that the original estimate of the overall cost of constructing this ~~building~~ by Hanscomb Roy

H-1, 1 follows

Aug. 27/73
11.05-11.10a.m.
B.A.

H-1782-1

(Mr. Shibley)

~~building by Hanscomb Roy was \$33,103,000.00. Now, Mr. Moog,~~
building by Hanscomb Roy was \$33,103,000.00. Now, Mr. Moog,
were you aware that that was the original estimate of Hanscomb
Roy?

Mr. Moog: No, I was not. I only understood that Hanscomb
Roy did not have many of the ~~the~~ specifications and many of the
requests made by us and Hydro what was to go into the building.
So I believe that ~~the~~ what you are seeing there is an amount
of money which does not reflect the total building. That is
my understanding, but I haven't dealt with ^{them on} ~~h~~ this item myself.

Mr. Shibley: It will be clear to the committee, because
Mr. Moog, I want to be clear, I ~~am~~ am going to take you through
the three sets of reports leading to the one that you finally tabled
as part of your appendix, but for the moment, I think it important
for the committee to understand the chronology. If you can't help
us in this respect I will understand that, but ~~that~~.

Mr. Moog: I have never seen this one before.

Mr. Shibley: All right. ~~The~~ So that, in the first
instance, working to the contract document alone, and I gather
without any benefit, yet, of ~~the~~ communication with your people, ~~or~~
or had there been any communication between Hanscomb Roy and
your people as at ~~the~~ April 25, 1973.

Mr. Moog: I can't really tell you that. I believe not.

Mr. Shibley: So that the worked-up figure of \$30 million
for the building added a contingency allowance of \$3 million and
came to \$33 million, again working much on their own.

Mr. Moog: I suppose that is what they did, but I can't really
help you on that. I have had them in the office.

Mr. Wm. Newman: Mr. Shibley, I am a little confused on
those figures on page two. Does this include the further items
you were talking about earlier, architects' fees, engineering and
all other consulting fees?

Aug. 27/73
11.05-11.10a.m.
B.A.

Mr. Shibley: No. As far as I know, Mr. Newman

Mr. Moog: Straight construction costs, I think.

Mr. Shibley: ~~that~~ this is straight construction

costs. It does include item 9, you will see, an item of overhead and profit.

Mr. Wm. Newman: But it doesn't include the other items ~~we~~
~~you~~ were talking about ~~the~~ ~~having~~?

Mr. Shibley: No. So that you have -- just dealing with that.

I see an item of overhead and profit, \$2,675,000 at a rate of eight per cent. That is not to be confused with the eight per cent for architectural fees?

Mr. Moog: I wouldn't think so at all.

Mr. Shibley: Again, that is an additional item, is that right?

Mr. Moog: I can't explain this report to you Mr Shibley, I am sorry.

Mr. Shibley: All right. Then, the next document that I want to exhibit is what I call the second Hanscomb Roy report of May 17, 1973.

Mr. Chairman: Mr. Shibley, before you leave this exhibit 202, does it give any place a total ~~of~~ estimated value of work to date, that is to the 25th April?

Mr. Shibley: No, it does not, sir. This is strictly their estimate of what it should cost to construct this building as they viewed the matter on April 25, 1973.

Mr. Chairman: It is in no way a progress report, then.

Mr. Shibley: No, it is not.

Mr. Chairman: All right.

Mr. Shibley: My understanding, incidentally, is that the first such progress report is under preparations ^{just} at this time. ^{would} I ~~have~~ asked the committee, then, to mark this next document exhibit....

Mr. Chairman: No. 203.

Mr. Shibley: ~~... No. 203, and to also mark it, sort of,~~

Aug. 27/73
11.05-11.10a.m.
B.A.

(Mr. Shibley)

No. 2, because we will be referencing what I might call version no. 1, version no. 2, and version no. 3 of the Hanscomb Roy report, and there could be confusion, because version no. 3 is given the same date of May 17th as version no. 2. Now then, in this connection, Mr. Moog, had you or any representatives of Canada Square meetings with representatives of Hanscomb Roy to discuss version no. 1 of their report and to provide them with representations as to why they were incomplete or too low?

Mr. Moog: I believe discussions took place because certain items were not included in whatever version it was. When these discussions took place I can't tell you, but I believe there were discussions, yes.

Mr. Shibley: And who participated in those discussions?

Mr. Moog: I would ~~not~~ believe it would be our Mr. Alex Johnston.

Mr. Shibley: That is your man in charge of this project.

(H-1783 follows)

Aug. 27/73
11:10 - 11:15 am.
M.S.

~~Mr. Moog: I would believe it was our~~

~~Mr. Al... ..~~

~~Mr. Moog: I think you might have~~

Mr. Moog: He is vice president of purchasing,

yes.

Mr. Shibley: Yes. And did that meeting take place on May 17?

Mr. Moog: There I couldn't help you.

Mr. Shibley: In any event, it took place prior to the compilation of what is now Exhibit 203, the second Hanscomb Roy report?

Mr. Moog: All I know is that there were discussions. When they were and what exactly was discussed in detail, I ~~cannot~~ can't help you with. But I know that there were certain items which had to be cleared up, and they dealt with what was really going in the building, rather than what they assumed. And I think when they found out how much more was going in the building, then these reports reflected that.

Mr. Shibley: Now, you were aware of those discussions because you had a phone conversation with Mr. Rasmussen.

Mr. Moog: I had one phone conversation. I wanted to make sure that if they do make a report that it reflects truly what is going in.

Mr. Shibley: Do you remember that Mr. Rasmussen complained to you that he was not getting the particulars of information, the figures that he wanted, in the course of that meeting?

Mr. Moog: I don't recall that particularly, but I do know that he was quite at a loss of what the specifications were about, and I explained to him that many of the specifications

Aug. 27/73
11:10 - 11:15 am.
M.S.

(Mr. Shibley)

particulars, did you not?

Mr. Moog: I don't know what particulars in detail were provided.

Mr. Shibley: Well, I just suggest ---

Mr. Moog: I think the big argument we had with Hanscomb Roy, I recall, was on the mechanical system.

Mr. Shibley: Well, I give you an example. When you found that they were low on the bill for Pilkington Glass, you produced to them the quotation of Pilkington Glass to prove that they were low, didn't you?

Mr. Moog: It's possible that has happened. *There* ~~was~~ *were* a few contracts we were able to do that with and other ones we were not because we haven't closed many contracts. And if there is a contract there and it's obvious that they are putting something else in than what's going in the building, I think they ought to be corrected.

Mr. Shibley: Yes, and don't you think it would be similarly fair to correct them if they are making too great an allowance?

Mr. Moog: If we had the details, I suppose that would not be unreasonable.

Mr. Shibley: Well ~~there~~ then, why are you refusing to provide such details either now or at the completion of the job?

Mr. Moog: Mr. Shibley, I have only met Hanscomb Roy, Mr. Rasmussen, I believe, on maybe one or two occasions and I really have had no personal dealings with that.

Mr. Shibley: I'm asking you now. I had asked you earlier what your intentions were. In the same way *as* you are quite prepared to show them documents proving that their estimates are ~~low and you know~~.

Aug. 27/73
11.15-11.20 a.m.
E.M.

H-1784-1

(Mr. Shibley)

~~prepared to show them documents proving that their estimate was~~

low and you acknowledge it would be reasonable to provide them to show that some of their items are high, why are you unwilling and you intend hereafter to refuse to Hanscomb any the actual cost of installing items and work in this building?

Mr. Moog: Well, I believe that certain things ought to be kept to our own company and we ^{ought} to keep our own counsel on certain items. I believe we have to look at it that way. We have developed certain methods of doing things ---

Mr. Shibley: I am not talking about methods, I am talking about the actual cost of letting a subcontract.

Mr. Moog: Well, even a subcontract could involve many things.

Mr. Shibley: I see. But your position still remains in spite of your last answer, and I ~~think~~ it remains your intention that whereas you are quite willing to provide them with things like the Pilkington letter to show them their estimate was low, you are not going to give them anything that will assist them in recognizing whether some of their items are high?

Mr. Moog: Mr. Shibley, I think if you are referring to one specific item, it could be that there was such a ~~disparity~~ disparity that it was necessary to show them that a certain type of curtain wall is being installed ^{where} they may have assumed a different type of curtain wall, because the curtain wall going in doesn't have to be one we have to provide, we could get by by installing a cheaper curtain wall very easily; we are not asked by Hydro to install that high calibre curtain wall which is going into that building at this moment. I think all that happened on that one if I can recall it is that they just had to be ~~straightened~~ straightened out on what is going in the building.

H-1784-2

Aug. 27/73
11.15-11.20 a.m.
E.M.

Mr. Shibley: Mr. Moog, you told this committee last time you gave evidence that the question of cost or value was academic because it was going to cost \$34. Why should you hesitate to provide the kind of data ---

Mr. Moog: This is our business, Mr. Shibley, ~~and~~ and we fully intend to keep it that way.

Mr. Shibley: All right. You expect then that Hanscomb Roy would rely on either their own devices or such representations as you are making without particulars?

Mr. Moog: I think if anything they are ^a very conservative firm and whatever their estimates ^{will probably be} are pretty accurate.

Mr. Shibley: Now, looking at what is Exhibit No. 203 ---

Mr. Bullbrook: Before you do that, if I may, this seems to be a crunch to me, I want to understand from Mr. Moog -- Mr. Moog, when you gave evidence under oath to begin with, you read your opening statement ---

Mr. Moog: Mm, hmm.

Mr. Bullbrook: And as you read page 18 and 19 I took it that you were saying to the committee, "Gentlemen, cost and value is academic because this is what it is going to cost us" and that you were saying to us under oath, "Gentlemen, it's going to cost me at least ~~\$47,652,187~~ \$47,652,187 to build this project". That is what I took your evidence to be. But as I understand it now, what you are saying in effect is, for example, let's forget about the architect's fee, let us talk about interim financing for a moment, ~~and~~ what the interim financing is going to cost me is ~~my business~~ but normally it would cost \$6,919,817. Now, I want you to correct me if I am wrong there, because, you see, when you give us those figures you give it to us under oath, you

Aug. 27/73
11.15-11.20 a.m.
E.M.

H-1784-3

(Mr. Bullbrook)

were reading a statement

Mr. Moog: I am aware of that, Mr. Bullbrook.

Mr. Bullbrook: All right, and knowing that you understand the significance of ^{that point} ~~these~~, I want you to correct me: You are not saying to us, "Members of the committee, this is what it is going to cost me".

Mr. Moog: I am saying this is what the cost of this project would be on the market.

Mr. Bullbrook: Right.

Mr. Moog: That is the point.

Mr. Bullbrook: Right, you are saying that

Mr. Moog: That is exactly what I have said. And I have not changed that.

Mr. Bullbrook: I want to apologize to you, you see, because I understood it differently. I understood that you were saying in effect in connection with ~~schedule~~ ^{appendix} appendix C this is what the interim financing is going to cost us, because this is ---

Mr. Moog: An interesting point you have got there,
Mr. Bullbrook.

Mr. Bullbrook: These are the figures that we have extrapolated as the cost of interim financing. I don't want to go over this and I don't want to be rebuffed by the fact that the interest rate ^{on} ~~an~~ interim financing might have gone up, but you are saying

Mr. Moog: Quite considerably.

Mr. Bullbrook: Generally speaking in the industry these are the costs?

Mr. Moog: That is right.

Mr. Bullbrook: It might not be the cost to Canada

Aug. 27/73
11.15-11.20 a.m.
E.M.

H-1785 1784-4

(Mr. Bullbrook)

Square?

Mr. Moog: In the industry these are the costs,
that is what I am saying. *Right.*

Mr. Bullbrook: I just wanted to understand that.

Mr. Moog: That is the point.

Mr. Shibley: Now, have you seen prior to this time
what is now Exhibit 203, version No. 2 of the Hanscomb Roy report?

Mr. Moog: Page number?

Mr. Shibley: Well, have you see the report as such?
guess

Mr. ~~Moog~~ Moog: Well, I have just - I ~~guess~~ I have
seen a few pages ~~pages~~ off and on.

~~Mr. Shibley: I have seen it at the time it~~

~~was produced~~

(Tape 1785 follows)

H-1785-1

~~Mr. Shibley: Did you not examine it at the time it was created?~~

Mr. Moog: I don't recall that I have seen this one.

Mr. Chairman: I think he said he just saw it now.

Mr. Moog: I have just looked at this report now. It is possible that I have seen excerpts of it. I really can't recall.

Mr. Shibley: I see. Now you will notice that the total on this particular report is now increased to \$38,031,000. Do you see that?

Mr. Moog: Yes, I do.

Mr. Shibley: And also that in that respect the contingency allowance has been dropped by \$2 million. Do you see that?

Mr. Moog: Yes.

Mr. Shibley: Now I notice also ~~in~~ item 9

Mr. Bullbrook: By \$2 million or \$1 million?

Mr. Chairman: To \$2 million.

Mr. Shibley: ~~Yes~~ Yes. By \$1 million. It was \$3 million in the first report. It is now \$2 million.

Mr. Bullbrook: Oh, I thought you said by \$2 million.

Mr. Shibley: No.

Mr. Bullbrook: You meant to \$2 million.

Mr. Shibley: And item 9, they've blocked out profit, it's overheads, and there is a deletion of anything for profit, Is that correct?

Mr. Moog: ~~that~~ ^{that} is what it says.

Mr. Shibley: Yes. And we now have an item 13 which is "Finishes to auditorium" of ~~\$175,000~~ \$175,000. Is that right.

Mr. Moog: Yes.

Mr. Shibley: Now, without going into the detail, Mr. Moog, because I will come back to it, was this figure of \$38 million established by including in this report an allowance for carpeting of \$1,086,000?

Mr. Moog: I heard about that at one time. Yes.

Mr. Shibley: Yes. And a further allowance for

August 21/13
11:20 - 11:25 am
CA

H-1785-2(

(Mr. Shibley)

full sprinkler system of \$740,000.

Mr. Moog: I heard about that too.

Mr. Shibley: Yes. So that, forgetting other items, very close to \$2 million of this increase to \$38 million represented two items with which you yourself disagreed, should form part of the contract.

Mr. Moog: And still do.

Mr. Shibley: Yes. And do you know at whose ^{instance} ~~instance~~ these figures were incorporated into this report?

Mr. Moog: No, I don't.

Mr. Shibley: You have no information as to that.

Mr. Moog: No I don't. I do not know myself.

Mr. Shibley: All right. So that in any event that report was a report of an increased amount. Perhaps if I don't ~~offend~~ ^{offend} Mr. Genest, I can indicate now to the committee, or he can indicate, how these items came to be included in this report.

Mr. Genest: They came from Mr. Candy.

Mr. Shibley: Thank you.

Mr. Genest: I think it was Mr. Candy's view that if he... in view of the covenant to build up to a ~~the~~ \$34 a square foot value notwithstanding the fact that the contract called for these items to be installed at Hydro's expense, that if there was a short-fall these should become Mr. Moog's expense.

Mr. Shibley: You don't agree with that though do you, Mr. Moog?

Mr. Moog: I don't agree with that.

Mr. Shibley: No, and in fact...

Mr. Moog: Not at this moment I don't.

Mr. Shibley: What does that mean?

Mr. Moog: That means that I believe we will have the \$34 plus, without those items.

Mr. Shibley: Mr. Moog, I think this is important, and I would like a very plain question and a plain answer. Mr. Candy appears to have received the report of April 25 wherein the total cost, including a contingency allowance of \$3 million, was only

H-1785-3

(Mr. Shibley)

\$33 million. He appears then to have given instructions to Hanscomb Roy to include just two items - I don't want to get into other detail - the carpeting, and a full sprinkler system, which would add \$2 million to their estimate, as per their second report. Now my understanding from Hanscomb ~~and~~ Roy is that the contract - and I have read it myself - is unequivocally clear that the carpeting is for the account of Hydro. Is that right?

Mr. Moog: Right.

Mr. Shibley: And with respect to the sprinklers, that Hydro is not entitled to a full sprinkler system as part of the contract specification.

Mr. Moog: Right, we don't believe that building should be sprinkled. It is fireproof, and it is not that high that it has to be sprinkled.

Mr. Shibley: All right.

Mr. Moog: That is our opinion.

Mr. Shibley: So now in fact, however, even without those items being included as at May 17, the estimate of Hanscomb Roy was increased to roughly \$36 million, including a contingency allowance

H-1786-1 follows

Aug 27/73

1186

B. A.

H-1786-1

(Mr. Shibley)

[illegible]

of ~~XX~~ \$2 million. Right?

Mr. Moog: If that is what ~~that is~~, that is so, yes.

Mr. Shibley: Now, I would like to produce to you ...

Mr. Deans: Do you think you ~~are~~ should explore

item 9?

Mr. Shibley: Yes, I would be getting back to it.

Mr. Deans: With Mr. Moog.

Mr. Shibley: But the difficulty - yes I will.

Mr. Deans: Yes, because there is a \$3.3 million

change.

Mr. Shibley: I beg your pardon?

Mr. Deans: There is a \$3.3 million increase, as I see it.

Mr. Shibley: Yes, but I think I can save the committee

time. I have been the ~~advantage~~ route on this and one of the advantages I hope you will gain from the recess is what I can do for you by a comparison of the report. This interim report is only of interest in terms of the inclusion at the instance of Mr. Candy of \$2 million worth of items that were not really ever intended for ~~the~~ Canada Square, so I just leave it at that for the moment and if you will stick with me, I think I can save everyone some time.

I want, in order to keep the exhibit numbers in chronological ~~and~~ ^{call} sequence, to have produced what I ~~can~~ ^{also} version No. 3, another report of Hanscomb Roy ^{dated} May 17, which should be exhibit 204, Mr. Chairman.

Mr. Chairman: 204.

Mr. Shibley: Now, if I may explain for the assistance of the committee, what appears to have taken place, is, and Mr. Genest, please correct me if I am wrong, that after version No. 2 was compiled, there were further discussions with representatives of

Aug. 27/73
11.25-11.30a.m.
B.A.

(Mr. Shibley)

Canada Square, and the May 17 report, which is version No. 2, was varied by the substitution of pages, and with those substitution of pages, a new report dated May 17, 1973, was compiled, correcting, for example, the inclusion of the carpeting and the sprinklers, and, on the other hand, including certain ~~the~~ additional charges for which Canada Square was contending, is that correct?

Mr. Genest: That is correct, Mr. Shibley.

Mr. Shibley: Yes. Now, in the interim - I should, just to make it complete, produce to the witness a letter which is dated July 9, 1973, on the letterhead of Canada Square and I ask that that be made the next exhibit, Mr. Chairman;

Mr. Chairman: ^{Exhibit} 205.

Mr. Shibley: Have you seen this letter before?

Mr. Moog: Yes, I have.

Mr. Shibley: Yes. And again, going to the last page ~~of~~ ^{will} of the letter and the last paragraph of this letter, and I wait for all members to receive their copy. Now, you will notice, Mr. Moog, and members of the committee, in the last paragraph it says, "We therefore insist that you add to your net cost of ~~the~~ \$36,231,000, the above additional amount of \$2,790,000 and arrive at a total construction cost of \$39,021,000." Now, Mr. Moog, to assist you, do I take it that what had happened was, you had taken version No. 2 of the Hanscomb Roy report, reduced it from \$38 million to \$36 million because you had eliminated those two items in part - this is a very broad brush - to get to a \$36 million figure, and you were in this letter saying, but you have to add ~~back in another \$2,790,000~~

(Tape H-1788 follows)

Aug. 27/73
11:30 - 11:35 am.
M.S.

(Mr. Shibley)

~~and you~~ ~~in this letter saying, "but you~~
back in another \$2,790,000 worth to come up with a correct figure." Is that correct?

Mr. Moog: I'm not aware of the details, but that is what Mr. Johnston obviously feels and that's what he sets out in this letter.

Mr. Shibley: Yes. And I draw your attention to the date of the letter, which is July 9, 1973. Can I take it, therefore, that what is now version number three^A and incidentally, that's the version that you tabled in part as part of your opening statement^A version number three, although dated May 17, was not finalized until sometime after July 9, 1973?

Mr. Moog: Again, I think Hanscomb Roy should answer that, but that is quite possible.

Mr. Genest: That is my understanding, Mr. Shibley.

Mr. Shibley: Yes. So that while this committee was ~~deliberating~~ deliberating this matter, there were discussions taking place as to what the evaluation of the building should be by Hanscomb Roy. Is that correct?

Mr. Moog: Well, I think discussions took place on what goes in the building and what should be included.

Mr. Shibley: Now, do you -- what is of concern to me and, Mr. Chairman, I say this carefully. There was an initial report of \$33 million, a further report of \$38 million which was wrong as to some of its content at the instance of Mr. Candy; and a third report which took us to the ~~\$22,000,000~~ \$37,499,000 figure upon which Mr. Moog relied in his opening statement. But that that last document, although dated May 17, was actually a document which was compiled, or in its final form, sometime in July of 1973, last month. Is that right?

Aug² 27/73
11:30 - 11:35 am.
M.S.

Mr. Moog: Well, if Hanscomb Roy say so and if they included these figures. I don't know exactly how they compiled it, Mr. Shibley, but I would certainly think that that report number three reflects some of the discussions between our Mr. Johnston and Mr. Rasmussen of Hanscomb Roy.

Mr. Shibley: Well, the only reason I've referenced your letter, Mr. Moog, is to make it clear that as at July 9, you ~~hadn't~~ hadn't reached a figure of \$37,499 with Hanscomb Roy. You were then talking \$36,231,000.

Mr. Moog: And we thought it ought to be ~~\$40k~~ \$39 million.

Mr. Shibley: That's right. But I think for the purposes of this committee, the committee should know that although the document that you tabled and the document which is now an exhibit, as Exhibit 204, is dated May 17, ~~in~~ fact, the negotiations leading to that figure were continuing as late as July of this year.

Mr. Moog: That's quite possible. I believe the bulk of the estimate is still as is and I think it's just been these few items which the discussions and adjustments took place on. So, maybe that's why they didn't change it. But I really shouldn't comment on that. That's really Hanscomb Roy's business.

Mr. Genest: Mr. Shibley, I think it should be made clear to the committee that I'm concerned that conclusions will be drawn from the date of May 17. That was made clear to you by me when those reports were turned over.


Mr. Shibley: I know you did. Let's be clear on that. The initial material ~~we~~ we asked for the Hanscomb Roy reports, I think as a matter of record, I think as far back as May of this year. We did not receive any reports at that time. We made a ---

Mr. Genest: You asked for them, I think in fact before May 17.

H 1787 - 3

Aug. 27/73
11:30 - 11:35 am.
M.S.

Mr. Shibley: Thank you. So that if I had been provided with a report on that day, it would have been the April 25 report showing a cost of \$33 million. I did not get that report. We asked for reports again two or three times and they were delayed in forthcoming. And we ultimately received two reports. Version number one and version number three, on July 14. Thereafter, and I'm sure it was at his ~~Wooler's~~ ^{instance}, Mr. Genest ~~discussed that that was~~ ~~number three in~~



Tape H 1788 follows

Aug. 27/73
11:35 - 11:40 am.
M.S.

(Mr. Shibley)

~~thereafter, and it was at his instance, Mr. Genest~~
discovered that what is version number three, in fact, was a document which was an amended form of version number two. And which, in fact, had not been compiled as at May 17, but included material which post-dated May 17, and he did then make that clear to me. I think that was in a discussion on July 23 or July 24, and undertook to reconstitute the three sets of reports which are before you.

I think that is pretty well correct, is it not,

Mr. Genest?

Mr. Genest: That's correct.

Mr. Shibley: Thank you.

Mr. Bullbrook: Mr. Chairman, I was just going to ask can you help us as to why the version number three wasn't dated actually and shown as a revision?

Mr. Shibley: Well, Hanscomb Roy simply say it was a mistake. I was not alerted to the fact, however, when I got the first two versions. ~~Like~~ Like versions one and three which were produced to me. No one alerted me to the fact that it was a document containing material of much later timing, and it was not until Mr. Genest quite promptly and on his own volition, communicated ^{that} to me. ~~that~~ We had a discussion about it, he said, have you gone over it, and I ~~said~~ ^{said}, yes, and I couldn't make too much sense. And he said, I can understand that because you haven't -- This is what took place and he then undertook to give me three complete sets, which he did.

Mr. Genest: But, Mr. Shibley, I think that at the time that the version number two was turned over to you, I think it was explained that this was a revision.

Mr. Shibley: No. Initially, what I got were versions one and three. I never got version number two until you provided me with the complete set of three on the second go around.

Mr. W. Newman: Mr. Chairman, May I ask a question?

Mr. Chairman: Mr. Henderson is next.

Mr. Shibley: That came from Hanscomb Roy, incidentally.

Mr. Genest: Yes.

Mr. Henderson: Mr. Chairman, Mr. Shibley, I would like to clear up a couple of items in my mind. We have the two reports before us from Hanscomb Roy Associates. Three? Okay. The part that I'm interested in, we come to this letter of July 9. Is it a must that these two figures have got to get together at this stage? The one is working for Ontario Hydro and supplying them with what they think should be the cost. And the other one is a letter from Canada Square saying what they think should be the cost. Is there anything compulsory Mr. Shibley, that they should get together on these figures and agree ~~them~~ on them at this stage?

Mr. Shibley: No, they are not, Mr. Henderson. The only thing is that I think it's probative for this committee to know, in trying to ~~come~~ to a conclusion as to value or costing - let's talk about costing, to know that Hanscomb Roy started and working strictly to the specifications as they understood them ---

Mr. Moog: There were many, Mr. Shibley. I want to make that clear to the committee. The problem Hanscomb Roy ^{'s} faced _A that they were just working with no material. We are still at this moment drawing specifications.

Mr. Shibley: I realize that.

Mr. Moog: Our request from Hydro was; go and build the building as good as you know how. We didn't have any. Nobody is to blame for that.

Mr. Shibley: I understand that. For example, they made an allowance of so much for ceiling and that was a

Aug. 27/73
11:35 - 11:40 am.
M.S.

(Mr. Shibley)

ceiling according to the specifications. That was changed later.

Mr. Moog: Completely.

Mr. Shibley: Now, the point is that they

started with an evaluation of \$30 million plus another three for contingencies. They went to a \$38 million evaluation on May 17, based upon what Mr. Candy told them was to be included ~~in~~ in part, based on what he said. Namely, those two ~~other~~ items. Canada Square said there's no way we're going to provide the carpeting and a full sprinkler, that's how we got to the \$36 million. And the letter ~~only~~ is of importance to show that as late as July 9 what was part of this ultimate version had not yet been settled. And that although it's dated May 17, the document necessarily is of a date sometime in July, in terms of its completion.

Mr. Henderson: Could be late June or early July.

Mr. Shibley: Late June or early July.

Mr. Henderson: Okay, ~~is~~ that really, actually

was a report to Hydro?

Mr. Shibley: Well, I think it would have to be in July. It would have to be after July 9.

Mr. Henderson: After July 9? Oh, no.

Mr. Bullbrook: It would have to be.

Mr. Shibley: It would have to be because they were still at the \$36 million figure here. Well, it doesn't matter, it's in July.

Mr. W. Newman: Mr. Chairman, I'd like to follow on that particular point. You've quite obviously talked to Hanscomb Roy. ~~What should the date be on version number three?~~

Aug. 27/73
11.40-11.45a.m.
B.A.

H-1789-1

(Mr. Shibley)

~~is July.~~

~~Mr. Wm. Newman: Mr. Chairman, I would follow him on
that particular point. I would discuss it with Hanscomb Rogers.~~

Mr. Shibley: Oh, yes.

Mr. Wm. Newman: What should the date be on version No. 3?

Mr. Shibley: I don't believe, Mr. Newman, they gave
us a precise date ~~because~~ so far as they were concerned; ~~that~~
it was after July 4, I know that. I know they had discussions
as late as July 4 ~~at~~ with Canada Square; and it was, therefore,
after July 4 when this document would have been completed.

Mr. Chairman: We will take a 10 minute recess at
this point, if we may.

(Tape H-1790 follows)

H-1790-1

The meeting resumed at 11:55 o'clock, a.m.

Mr. Chairman: Ladies and gentlemen, I call the meeting back to order.

Mr. Shibley: Members of the committee, what I thought I would do is, now that they are in evidence, is temporarily leave these three reports. I am going to come back to them very shortly, but I thought perhaps over the luncheon recess if you might scan them so as to get orientated; it would help you follow the line of questioning that I put to Mr. Moog in that respect. At the moment I just wanted to introduce them as exhibits, have them before you, and as I say if you spend even 15 or 20 minutes over the luncheon recess looking at them it will help me make it intelligent to you later.

Mr. Moog, as part of your opening your statement you take..

Mr. W. Newman: Mr. Chairman. I'm sorry to interrupt; but I would like to ask ~~something~~ Mr. Shibley a question. We have had these versions put before us; one, two and three; and the letter today. Hanscomb Roy I assume are independent quantity surveyors who do work for various firms like Hydro and other people. They do their own figuring with bricks and mortar material. Is this correct? ~~Some~~

~~some~~ Mr. Shibley: Yes.

Mr. W. Newman: These are their figures, ~~And in no way~~ they are an independent firm and they are just working for Hydro.

Mr. Shibley: They are an independent consulting firm retained by Hydro, that is correct.

Mr. Genest: I should make it clear, Mr. Chairman, that their instructions from Hydro are that, while it is of course perfectly legitimate for them to consult with Mr. Moog about figures they are to ~~also~~ exercise their own independent judgment.

Mr. Shibley: That is right.

Now, again Mr. Moog, returning to your opening statement, you exhibited a letter of July 5 from Tamblin Mitchell and you have already confirmed to me that the figure of \$7.50 ~~for~~ mechanical installation of this building is a major item in terms of the

H-1790-2

(Mr. Shibley)

difference in cost between this building and that which might have been proposed by other developers. That is correct?

Mr. Moog: That is correct.

Mr. Shibley: And that it was part of your estimate of \$34 per foot that you would install this type of system and at this cost. Is that correct?

Mr. Moog: That we would install this type of system, and we thought we should be given a higher allowance than the one stated in here.

Mr. Shibley: Yes, even higher than \$7.50.

Mr. Moog: That's right.

Mr. Shibley: I'd like produced to you one of the very early documents from within your own file, styled "Ontario Hydro administration building" which appears to be a breakdown of the price per square foot of gross floor area for the Hydro building. Do you recognize that?

Mr. Moog: That was done by one of our men. Yes.

Mr. Shibley: Yes. Who did that?

Mr. Moog: I believe Mr. Johnston.

Mr. Shibley: Yes. He is your expert, I gather, on purchasing and..

Mr. Moog: Purchasing and costs. Yes.

Mr. Shibley: And costs, yes. You will notice on page 2 of your own ~~own~~ original estimate, about two thirds down the page is the item "plumbing and mechanical" \$5.00. Do you see that?

Mr. Moog: Yes I do.

Mr. Shibley: Now, then I take it that even though this selfsame system was intended for this building from the outset that Mr. Johnston, who is the expert on costing, figured to install it at a cost of \$5 rather than at a cost of \$7.50, respecting which you have filed the appendix of Tambllyn Mitchell. Is that not so?

Mr. Moog: I wouldn't know what he includes in this \$5 figure. I don't know whether that is the complete indication in the air wall or whether that is all of the mechanical. I think Mr. Johnston would have to....


H-1790-3

Mr. Shibley: Well it says plumbing and mechanical, Mr. Moog.

Mr. Moog: I am just not sure what that includes, Mr. Shibley.

I think the best would be to ask Mr. Johnston that.

Mr. Chairman: I'm marking that as exhibit 206.

Mr. Shibley: Thank you. And, of course the disparity of
\$2.50 on this building, as we have already said, ~~is something is~~
~~something is~~ 

1791-1 follows

H-1791-1

(Mr. Shibley)

~~disparity of \$2.50 on this building, as we have already said,~~
is something in excess of.....

Mr. Moog: It is a few million dollars.

Mr. Shibley: It is between \$3 and \$4 million.

Mr. Moog: Yes, in that range.

Mr. Shibley: Is that right?

Mr. Moog: Yes.

Mr. Shibley: So we are talking a major disparity when we talk of the difference between \$5.00 indicated on page 2 of his original breakout and \$7.50 as per the Tambllyn Mitchell report. Is that correct?

Mr. Moog: That's right.

Mr. Chairman: This is exhibit No. 206.

Mr. Bullbrook: Could you ask the witness to view, quickly, the other material?

Mr. Shibley: In that breakout?

Mr. Bullbrook: And ascertain ~~what~~ ^{there are} whether ~~the~~ things that ~~#~~ would normally be included in the plumbing and mechanical that are separately included.

Mr. Shibley: Can you help us?

Mr. Moog: I couldn't do it that quickly. I would rather consult with Mr. Johnston and have him give you your answer, Mr. Bullbrook. I am sure that there is a reasonable explanation for this. I am quite ~~sure~~ ^{certain}.

Mr. Shibley: All right. Now then, Mr. Moog, the letter of July 5th, from Tambllyn Mitchell which is part of your material as an appendix, really wasn't the first letter that ^{was} ~~xxx~~ elicited from that firm referable to the cost of the mechanical installation, was it?

Mr. Moog: Mr. Cooper, our architect, dealt with the Tambllyn Mitchell firm. I, myself, did not, so I can't give you the details but it is quite possible that there was another letter, and

AUG. 27/1973
12.00-12.05 p.m.
B.A.

(Mr. Moog)

as a matter of fact, I think there was another letter, or that there was ~~certainly conversation on this, because we had a~~ disagreement with the Tamblin Mitchell firm on our patented system which we believe they were trying to circumvent and building a cheaper version of it, selling ~~it~~ it as an as good, or almost as good system which we, of course, disagreed with.

Mr. Shibley: In fact, there was an earlier letter dated July 4, 1973, one day prior to the one which you made an ~~appendix~~ appendix.

Mr. Moog: It is quite possible.

Mr. Shibley: An that letter was from Tamblin Mitchell, also to Mr. Rasmussen, is that right?

Mr. Moog: I don't know the details, but I certainly think that that is ~~is~~ quite possible.

Mr. Shibley: Did you not get a copy of that letter?

Mr. Moog: I don't have one here.

Mr. Shibley: Did you get a copy of it at the time?

Mr. Moog: I ~~as~~ probably saw one on my desk, whether I went through it or read it I don't know.

Mr. Shibley: And it used the Trans America building as a basic premise for comparison?

Mr. Moog: I think we tried to make it quite clear that that would be a good basis of comparison. Yes, we had just completed that building and we had just had some pretty good costs on it.

Mr. Shibley: Yes. They disagreed with the comparison made and then there was a second letter compiled by Tamblin Mithhell of July 5th which you have exhibited, using the federal complex as a basis ~~of~~ for comparison, is that right?

Mr. Moog: I believe that is substantially correct.

Mr. Shibley: Yes. Now then, did you have discussions with Mr. Mitchell, of Tamblin Mitchell, referable to what should be

Aug/27/73
12.00-12.05p.m.
B.A.

(Mr. Shibley)

contained in these two letters of July 4 and July 5, 1973?

Mr. Moog: I just met Mr. Mitchell here and he said to me that we had one phone conversation. I can't recall it, but it is quite possible that I did.

Mr. Shibley: I would like now to produce to you the copy of the Tambllyn Mitchell report of July 4 which we received, I might say, out of the files of Hanscomb Roy, and make that the next exhibit, Mr. Chairman.

Mr. Chairman: 207.

Mr. Shibley: Now, Mr. Moog, just glancing at this letter, this is a letter much to the same purpose, in other ~~words~~ words, to show as indicated on the third page that the mechanical installation should have ^a evaluation of \$7.85, is that correct?

Mr. Moog: That is what it says.

Mr. Shibley: Yes. Now, I ask you to look with me at the comments made at the conclusion of that -- you see the notations at the conclusion of that document? I am sorry the reproduction is so poor but I will attempt to read it for everyone's benefit.

Mr. Moog: I have difficulty reading them so maybe you could read them.

Mr. Shibley: It says, ⁴ points: 1: Is the TransAmerica building a fair comparison in terms of GKA, volume, design, population, multiple tenancy, shell construction and materials; ² " I can't make that word out.

~~3: Point of estimated escalation~~

(Tape H-1792 follows)

August 27/73
12.05-12.10 p.m.
E.M.

H-1792-1

(Mr. Shibley)

~~_____~~
"2. Basis of estimated escalation invalid.

3. Air chambers, royalty fees cannot be brought into the discussion.

4. Changes during construction of 202,577 may be invalid for comparison purposes.

5. General: I think this is an attempt to suck us into agreement of Canada Square price. Be careful. S.D." ~~Stewart~~
And I might tell you that those are the initials of ~~Donald~~ Donald of Hanscomb Roy. And then it goes on: "Note (something) comparison, etcetera" And then in the body of the document itself, you will notice on page 3 at the top the factor that is used for escalation is 22.8 per cent, then there is a note to the right of it, "not valid" - that is ~~the~~ the escalation factor of 22.8 per cent "not valid, actual (something) 50 per cent of 22.8 per cent," which would be a reduction of what they view to be the proper escalating factor.

Now, I've helped ~~you~~ you to the extent I can, Mr.

Moog, but I am concerned to receive your comments as to why Mr. Stewart

~~Donald~~ Donald of Hanscomb Roy on the first go-around to establish a 7.85 valuation of the mechanical installation, should comment as he has in the notations to this document.

Mr. Moog: I am not sure that I know the gentleman and I certainly haven't been involved in this to any detail or great detail myself. I only know that Mr. Tambllyn is a very excellent salesman and I think very often travelled together, and I heard that again and I don't even know who from, with Hanscomb and Roy to Ottawa and I think we educated him to the system which is now being employed in many buildings. He obviously tries to sell his version of it and the way he is

August 27/73
12.05-12.10 p.m.
E.M.

H-1792-2

(Mr. Moog)

selling it is he goes to competitors and says, "I can give you almost the same thing for less money"; and therefore we have had this running battle about getting credit for what we have developed and for which we have patents. And it is that sort of a situation, I can't make more comments on it, I don't know why this man would do this, would write these comments.

Mr. Shibley: Mr. Moog, what is of interest to this committee I believe is this: That your Mr. Johnston when he took off the \$34 price had a figure of \$5 for plumbing and mechanical, and you are going to check that? -- You then went -- or, ~~or~~ I am sorry -- Tamblin, Mitchell by letter of July 4, which is now the next exhibit, ---

Mr. Chairman: 207.

Mr. Shibley: 207, by relating to the Transamerica Building, came up with a figure of 7.85.

Mr. Moog: Mm, hmm.

Mr. Shibley: That appears to have been challenged by Hanscomb Roy as an improper premise for comparison, to use the Transamerica Building; and then they came up with a second letter which you used as part of your opening statement to support your own valuation, using the federal complex in Ottawa and said, "Oh, well, ~~the~~ ^{the} ~~that~~ ^{using} that as a basis", they came up with a \$7.50 figure. Is that right?

Mr. Moog: They obviously agreed upon. I still think it is low, but this is how it was ~~agreed~~ ^{arrived} upon.

Mr. Shibley: Are you saying that Hanscomb ~~and~~ Roy even agree with this letter that you have made appendix B to your opening statement?

Mr. Moog: I believe in their final estimate that they are very close to that figure.

H-1792-3

August 27/73
12.05-12.10 p.m.
E.M.

Mr. Shibley: I challenge ---

Mr. Moog: I can't be sure right now, but I ~~believe it!~~

Mr. Shibley: Well, now, let's go to that.

Mr. Moog: All right.

Mr. Shibley: We'll look at what amounts to version

No.3. of their estimate. And on the fourth page ---

Mr. Henderson: Mr. Chairman, I don't appear to have
version 3. What is ---


Mr. Chairman: Exhibit 204.

Mr. Henderson: Fine, I've got 204 but I don't connect
it with version 3.

Mr. Renwick: It is the --- he asked you to mark
that ---

Mr. Chairman: ~~It is~~ May 17 --- on the front page.

Mr. Shibley: All right. And if you look at sheet
No.3 of that report, just a summary sheet, it deals with ~~item~~
No.8 is services .



(Tape 1793 follows)

Mr. Moog: Well, Mr. Shibley, I don't want to say anything incorrect, I would believe that that three-quarters of a million there is probably designed to cover certain extra costs in the podiums which are going to be considerably more expensive than the \$7.50 per square foot.

H - 1793 - 2

Mr. Shibley: But in any event it's - now that I look at it -----

Mr. Moog: Actually I would rather have Hanscomb Roy stated ^{what} -----

Mr. Shibley: All right, but I think the real answer in any event is that this is part of the contingency allowance ^{\$2 million} ~~that was~~ in any event. Is that not so?

Mr. Moog: I don't know, it could quite easily be. ^{it was it would be} If that's what

Mr. Shibley: Yes. So in this respect the final edition so far, the third edition of Hanscomb Roy says:

"We now*With all the representations made by Canada Square think the building could be built for \$35,500,000, plus a contingency allowance of two million dollars and these are the items that make up the possible expenditures." Is that right?

Mr. Moog: Well there is no allowance at all, for, for instance, the extra cost in the podium air conditioning. We are having vaulted roofs which are very expensive to treat climatically.

Mr. Shibley: Well Mr. Moog, just so ^{as to get over} -----

Mr. Moog: I don't want to leave that word ^{"possible"} ~~realistic~~ with the committee because I think those are realistic estimates.

Mr. Shibley: Okay, but even if they are they are already included as part of a contingency allowance.

Mr. Moog: Well, we obviously never touched base with Hanscomb Roy on our air conditioning system. I can only elaborate this way on it, that at the time the Toronto Dominion Bank was built, one of the executives asked me whether they could have the rights to our system and at that time they were supposed to pay something like ~~about~~ \$8.80 per square foot for our system.

Now if we ask \$7.50 I think that is a realistic request, and if Hanscomb Roy puts in \$6.50, well then obviously they are wrong, and that is one of the items we don't agree with them on.

Mr. Shibley: I see. But Mr. Moog, what is of concern to me now is this. You have filed as part of your statement,

August 21, 1913
12.10-12.15 p.m.
N.Y.

H - 1793 - 3

(Mr. Shibley)

opening statement, the report of Tambllyn-Mitchell supporting a figure of \$7.50 and you have referenced the report of Hanscomb Roy as well. In fact Hanscomb Roy do not agree with the figure that you are contending for respecting the mechanical installation.

if
Mr. Moog: Well these are the final figures from
Hanscomb Roy, obviously they don't.

~~Mr. Shibley: Yes, but these are the final figures from~~

Tape H - 1794 follows

August 27/73
12:15 - 12:20 pm
CA

H-1794-1

Mr. Shibley: IN addition I'd ask you to look at your proposal of January 24, which is exhibit 61, ^{with me.} I have asked the members of the committee also to have the opening statement in front of them. Now in your opening statement, Mr. Moog, you will notice on page 16, paragraph 54:

"Thus, of the apparent difference in rental rate of 42¢ per square foot, 30¢ per square foot is explained by the superior ~~mechanical~~ mechanical system and curtain wall." Do you see that?

Mr. Moog: Yes.

Mr. Shibley: So that as of ~~the~~ time you commenced giving your evidence before this committee, you put a rental rate valuation of 30 cents on the superior mechanical system and the curtain wall. I am reading that correctly?

Mr. Moog: Yes.

Mr. Shibley: Now I ask you to look at your proposal as submitted to Hydro ^{of the proposal,} on page 4, which is exhibit 61, and you will note that it says - it is talking about these special features and so on, - that you are intending to charge a slightly higher rental than would be applicable. I am looking at the bottom of page 3:

"We must pass some of these additional costs on to you in our rental rate as we are unable to absorb all of these expenses ourselves. However, in order to permit you to assess our proposal we are setting out ~~below~~ below the cost estimates which our architects and engineers have provided for the special features which have been calculated on the basis of additional annual rental per square foot of space.

VVR mechanical system - 55¢; curved shape - 24¢."

When you say "curved shape" I take it that is not the curtain wall you are talking about?

Mr. Moog: No, I think these are extra costs incurred by that particular ~~submission~~ ^{curved} shape.

Mr. Shibley: So that in your submission for the mechanical system alone you were contending for an added rental of 55 cents.

Mr. Moog: That is right.

August 27/73
12:15 - 12:20 pm
CA

H-1794-2

Mr. Shibley: Whereas you said in your opening statement that the mechanical system and the curtain wall is worth 30 cents.

Mr. Moog: That is correct. You see we were never given any credit for any royalties, and I believe we ought to be given credit for royalties. This is our patented system. It is the best one on the market. It does a job. As a matter of fact while we are at this I would very much like to hand out an explanation made up by our architect to the committee members that they understand what we are really talking about, because this thing has been bandied ~~and~~ enough that I think an understanding is necessary.

Mr. Shibley: All right, let's have it.

Mr. Moog: If I can do that I would like to do that.

Mr. Shibley: Surely. Just if I may while they are handing those out, Mr. Moog, eliminating some amount for the curtain wall, even a disparity of 25 cents a foot in the rental rate, even if the whole disparity related to the mechanical installations, that would be a very meaningful sum of money.

Mr. Moog: Mr. Shibley, I couldn't agree with you more. We are very proud of our patents and what we have developed and we think it is an awful important item in a ~~structure~~ structure is to have the interior perfect.

Mr. Shibley: We are talking \$300,000 a year for 30 years. just on that one small item.

Mr. Moog: I realize that. I would like to hand out another item on ~~that one~~ ~~that one~~ that one. As a matter of fact.

Mr. Bullbrook: Let's digest this one, shall we?

Mr. Moog: Okay.

Aug. 27/73
12.20-12.25 p.m.
B.A.

H-1795-1

~~(No further)~~

~~on that one exhibit item.~~

~~Mr. Moog: I would like to hand out another item on that~~
~~and that matter of fact~~

~~Mr. Bullbrook: He let's just drop this one first.~~

Mr. Moog: Okay.

Mr. Shibley: Have I seen this? I haven't seen this before, Mr. Moog, so why don't you, on your own initiative, outline it to the committee. Do you want this marked an exhibit?

Mr. Moog: If you wish, sure.

Mr. Chairman: That will be 208.

Mr. Bullbrook: Does Mr. Finlayson want to look at this before we get into it?

Mr. Finlayson: Well, I'll ~~be~~ I don't want to be taken by surprise and more than...

Mr. Moog: He's getting an education as we go along, like everybody else.

Mr. Bullbrook: Don't feel downtrodden, Mr. Finlayson.

Mr. Shibley: Would you carry on, Mr. Moog?

Mr. Moog: Would you like me to read it? It may be the best idea.

"The prime purpose of a good air-conditioning system is to create a controlled environment within the building and to keep the effects of the outside elements outside where they belong.

"The best way to keep the outside conditions from affecting the interior environment is to put a special barrier (as later described) between each and treat the interior environment as soon as possible to prevent the outside conditions from affecting the people inside.

"One of the main differences between the patented air-conditioning system of Canada Square and the 'compartment system' and I may just elaborate that that is the system that Mr. Tabblyn has been selling and has been advertising to such people as Hanscomb Roy, and we have had our difficulties with to

Aug. 27/73
12.20-12.25 p.m.
B.A.

(Mr. Moog)

explain the difference. And Y and R has, by the way, in their submission, used the compartment system and therefore we have referred to the Y and R system in this ~~was~~ specifically because that was part of their submission and that was part of their cost. 20

ue: "... as proposed by Y and R is the fact that the Canada Square system is working within the wall (being the special barrier) and immediately inside the windows to act like a defroster. This method of passing air through the wall and up over the glass, allows no possibility of the exterior affecting the interior environment.

I might just add that we did also develop a patent for Volkswagen which was more or less based on the same system where we changed the air flow within the ~~was~~ Volkswagen and got a patent on it, called the ~~Volkswagen~~ Volkswagen.

"The Y and R method allows the effects of the exterior to pass through the wall and into the interior of the building and then tries to counteract the effects; in the Y and R method the battle between the hot and cold elements takes place inside the room where the people are.

"In the periphery area (that area extending from the exterior wall inward for a distance of approximately 15 feet around the perimeter of the building) the two systems show their greatest differences and it is in this area that the greatest problems for air-conditioning systems are created due to the large variance in demand from extreme heat to extreme cold, probably all occurring in the same day in different^t locations in the building."

This is all particularly important to, of course, curtain wall buildings, where you get more light but also have this problem.

"In the Y and R system, the periphery area is handled by a baseboard heater ~~was~~ of some description (which is a potential hot spot during the winter season) and ~~was~~ a variable volume air handling box in the ceiling area. The baseboard heater is used in the winter time in an attempt to counteract the down draft from the


Aug. 27/73
12.20-12.25 p.m.
B.A.

(Mr. Moog)

cold windows above. This baseboard heater is usually controlled by an outdoor thermostat which sets the temperature of the baseboard heater with respect to the outside temperature. This means that on a sunny cold winter day the baseboard heater may be heating which may be required on the ~~shady~~ shady side of the building but would not be needed on the sunny side which could even require ~~cooling~~ cooling. This possible need for cooling has to be taken care of by the air handling mixing-box in the ceiling. This means a potential waste of energy because of the heating at the baseboard being offset by cooling overhead. This clash of requirements creates a greater potential of cold down-drafts coming off the cold windows, or excessive hot spots from the radiation. The fact that the window area is left cold makes the build-up of frost on any single glazing and possible areas of double glazed windows, very probable, especially if an acceptable percentage of humidity is maintained."

"I think we have a record of being able to maintain one of the highest humidity grades through our system, which, for our ~~own~~ purposes, is important.

"When the thermostats call for only a little heat, which can be provided by the baseboard heater, the air handling mixing-box in the ceiling reduces the volume ~~down~~ down to a minimum discharge (which can be as low as 10 per cent of the full capacity) reducing the total volume of air circulated far below ~~what~~ what we consider as acceptable to provide an adequate supply of clean filtered air." That is ~~what~~ what some people call the flushing effect.

"In the Canada Square system, the periphery air ~~is~~ handled through the patented Air-wall 

(Tape H-1796 follows)

Aug. 27/73
12:25 - 12:30 pm.
N.S.

(Mr. Moog)

~~...that's what some people call the floating effect.~~

~~In the Canada Square system the periphery air~~

is handled through the patented Air-wall. The air wall system is basically what its name implies, mainly, that all air handled in the periphery area passes through the wall and up and over the glass like the defroster in a car.

Basically, a variable volume high pressure (air handling with terminal re-heat coil) mixing box located below the floor is ducted into the cavity of the spandrel of the curtain wall. From the cavity in the spandrel, the air is directed through the continuous slot in the window sill up and over the glass window area of the curtain wall. This method of passing the air through the wall and over the window, like a defroster, allows a greater percentage of humidity to be carried within the building, even a single glazed building can be humidified in the winter with this patented system. The higher the humidity the less chance of coughs, colds and absenteeism." ~~I~~ I would like to give you a report on that, too, which I have with me. "The lack of "hot spots" or cold areas creates a more comfortable environment and also allows for more freedom of office planners when they don't have to plan around these "bad spots".

In the hot sunny days, any tinted glass is heat absorbing, and after any length of time in the sun it will start to re-radiate heat. In the Canada Square system this glass is continuously cooled and therefore does not store up heat to the point of re-radiation.

The flow of air from the mixing boxes in the Canada Square system can only be regulated down to 50% of capacity, which guarantees what Canada Square considers as a minimum volume of air circulation to prevent any build up of smoke, odors, or plain stale air. The Y & R system usually

Aug. 27/73
12:25 - 12:30 pm.
M.S.

)Mr. Moog)

"modulates down to 10% capacity to compensate for the temperature demands only, which we consider is below that required for good air circulation.

The difference between the two systems in the interior zone is less outstanding and it requires greater investigation into the details to notice the differences.

Both interior systems are handled through variable volume mixing boxes but details of numbers and capacities of mixing boxes and controls, duct linings and method of diffusing indicate the differences in the capability, flexibility and refinement of each system. To evaluate the system necessitates the complete detailing of each.

Both systems use the same ~~main~~ method of handling air, which is a central fan with duct work feeding to mixing boxes which feeds the ceiling diffusers. The difference between the two systems is in the detail." That's in the interior again.

"The Y & R system uses packaged fan units whereas the Canada Square system uses custom made fans to handle the design capacity which is usually too large for the package units available on the market. These custom design units are designed for maximum capacity at a low noise level whereas when a package unit is operated at or near maximum capacity it also produces higher noise levels.

It may seem that the logical answer is to use more package units at lower capacity and scatter them throughout the floor area; this is an answer for the air handling needs only, but has the following drawbacks:

1. More fan rooms means more locations for potential noise makers. In the Canada Square system you will note that the fan rooms are isolated behind service rooms and concrete walls which helps to eliminate the noise problem."

Aug. 27/73
12:25 - 12:30 pm.
M.S.

(Mr. Moog)

We usually locate our washrooms to go around the mechanical rooms to have a bubble zone.

"This increases the cost of duct work required to service the more distant areas but also helps to create a quiet environment.

2. More fan rooms also mean more service areas and problems scattered throughout the office floor area, meaning increased maintenance costs and distractions to office staff which will reflect now and later on in higher operational costs to the owners, which will be the Ontario Hydro.

The Canada Square system of conservation of energy through the use of a million and a half gallon storage tank under the building is unique only to the Hydro Building.

Through the use of computerized controls, and a well designed computer program, Canada Square can store or use, hot or chilled water as the demands vary through the day, night, week and seasons of the year to reduce to the absolute minimum any waste of energy.

This storage tank ~~was~~ reclaims energies normally wasted, such as unused heat from lights and compressors, acting as a flywheel for coasting over demand peaks and valleys even to the extent that if a power failure lasted for 3 or 4 days in the middle of winter the building could be maintained at normal temperature by using standby power on circulating pumps and fans.

All in all, the Canada Square system is a totally custom engineered system integrated into the building from the beginning whereas the Y & R system is a glorified window unit system and packaged floor units scattered around a building to simulate air-conditioning."

~~Mr. Shibley: Mr. Moog, you're . . .~~

August 4/1967
12:30 - 12:35 pm
CA

H-1797-1

~~(Mr. Moog)~~

~~"the Y & R system is a glorified window unit system and packaged floor units scattered around a building to simulate air conditioning"~~

Mr. Shibley: Mr. Moog you have made repeated references in that documents as well as in your opening statement to Y and R and I think in fairness to them I should ask you a few questions about the building that they pointed to as the example of the structure that they were intending for Hydro.

Mr. Bullbrook: Before you do that, would you permit one question?

Mr. Shibley: Yes.

Mr. Bullbrook: Mr. Moog, in view of ~~the~~ your opinion as to the obvious superiority of the Canada Square system, and your concurrent justification of the royalty that should be paid in effect by Canada Square to Canada Square as I understand it.

Mr. Moog: It should be given to us as an allowance.

Mr. Bullbrook: All right. As a credit okay. Can you give us examples of where this system has been used by other developers and your corporation has been paid royalties?

Mr. Moog: This is a relatively new development. We have been approached. And we have had, as a matter of fact, Pilkington Glass people talk to us about coming to an agreement on a royalty but we have not followed through. We believe we'd like to use this for our own buildings for another period ^(of time) and then promote it. We have so far not entertained the idea. But we have had approaches.

Mr. Bullbrook: How long have these patents been in being?

Mr. Moog: These very latest ones?

Mr. Bullbrook: Well the patents used in the Canada Square system.

Mr. Moog: I would have to ascertain that, but I would be glad to give you that information.

Mr. Bullbrook: Could you give me some, surely..

Mr. Moog: I might have to ask Mr. Coles, he might know.

Mr. Coles: About 1966 to 1967.

Mr. Moog: 1966 to 1967.

AUGUST 21/13
12:30 - 12:35 pm
CA

H-1797-2

Mr. Bullbrook: Seven years. I wanted to say to you that I consider the question of the royalty payment, or the inclusion of a royalty benefit to Canada Square highly irrelevant. And I find it difficult to understand if this system is so attractive to the industry why nobody has ever used it before except Canada Square.

Mr. Moog: That is a very good point again. You see if you get a Mr. Tamblin out and designing something which could be built for less money, and will then be represented to do also a job, and it ~~does~~ a job - it just doesn't do that good a job - and we have not promoted it, we have no company which takes it on to go and promote this system which should be promoted, then I suppose there are no sales.

Mr. Bullbrook: Mr. Moog though, I think you will agree with me. Will you bear with me for a moment Mr. Shibley? I think you will agree with me Mr. Moog that what you are saying in effect, in your mark up of what you are entitled to, is that you are entitled to in effect a royalty benefit that could possibly amount to some \$9 million over the life of the lease.

Mr. Moog: Mr. Bullbrook, with ^{all} due respect, if we bandy figures around, and we talk now \$9 million. We have said the difference is, in actual cost, maybe 20 cents capitalized at about \$2 million - \$2.5 million. And ~~that's~~ ^{let's} not using \$9 million. And let's ~~rather~~ use the capitalized value of that. They are two entirely different things. Otherwise we will get the newspapers again saying Moog should get \$9 million. I don't want to leave that impression

Mr. Bullbrook: Well will you...

Mr. Moog: I agree with you that there should be a royalty, a very substantial royalty paid. Yes. Now we are not asking for this. We don't have to ask for it. But I think it is justified.

Mr. Bullbrook: You are not asking for it, but in arriving at your cost of \$34 a square foot you are including it.

Mr. Moog: No.

Mr. Bullbrook: You are not?

Mr. Finlayson: No, no.

Mr. Moog: No we are not. As a matter of fact we have told Hanscomb Roy they should include it. But you see they have been

August 27/73
12:30 - 12:35 pm
CA

H-1797-3

(Mr. Moog)

told otherwise.

Mr. Bullbrook: Let me continue for just a moment. My problem is Tambllyn Mitchell, if I can characterize it as such, in connection with the marketing of the Canada Square system seem to be the villains. And yet at the same time Tambllyn Mitchell are your own consultants.

Mr. Moog: Let me put it this way. Mr. Bullbrook, we have educated Tambllyn Mitchell to this system.

Mr. Shibley: No, I'm sorry, you are ~~quite~~ wrong in that respect.

Mr. Bullbrook: No? All right then, you correct.

Mr. Shibley: Bear in mind that Tambllyn Mitchell's reports were being tabled in support of Canada Square.

Mr. Moog: To a degree only, Mr. Shibley.

Mr. Shibley: Claiming first on July 4 that it was worth \$7.80 something and then on July 5, \$7.50. It is Hanscomb Roy that are noting criticisms of the method of ~~max~~ computing the value as advanced by Tambllyn Mitchell.

Mr. Moog: Perhaps I ought to just deliver something here which explains why one should buy quality rather than just another air ~~max~~ cooling system.

Mr. Shibley: Before you do that...

~~Mr. Bullbrook: Max Shibley... I interrupted. I made my question up.~~

H-1798-1 follows

August 27, 1973
12.35-12.40 p.m.
M.F.

H - 1798 - 1

~~(Mr. Shibley)~~

~~the... I can find this~~

~~Mr. Shibley: Well before you do that I~~

Mr. Bullbrook: At the last point I interrupted, I made my questions obvious and direct.

Mr. Shibley: I am going to come back to royalties, Mr. Bullbrook, in any event and -----

Mr. W. Newman: Mr. Chairman, before we retire for the lunch hour, Mr. Shibley asked a question this morning and I am a little confused and I would like some help so I can think over the lunch hour on versions 1, 2 and 3.

Mr. Shibley: Yes?

Mr. W. Newman: So perhaps Hanscomb Roy were hired by Hydro, were told by Hydro to go ahead and do their own independent appraisal on these things, and the third version which is dated wrongly, was dated after July 4th, came up with a figure of \$37,500,000.

Mr. Shibley: Inclusive of a two million contingency allowance, that they don't know yet whether it is going to be spent or not.

Mr. W. Newman: If we add to, from Mr. Moog's statement on page 19, if we accept his figures at \$10,153,000 - architects, legal fees, etc., are we trying to prove the building is going to cost a lot more than \$34 a square foot, or less? I am confused.

Mr. Shibley: We are trying to find out -----

Mr. Aglian: It depends on which side of the table you are.

Mr. W. Newman: I am a little confused. Hanscomb Roy are an independent, quantity ~~surveyor~~ ^{surveyor} group, well known firm?

Mr. Shibley: Well you see that is why it becomes important to know whether the interim financing is really going to be \$3 million, whether the architectural fees are in part

August 27, 1973
12.35-12.40 p.m.
M.F.

H - 1798 - 2

(Mr. Shibley)

going to be paid to Canada Square, whether royalties are going to be allowed - these things are all part of it and before we are through I am hoping we will understand that, Mr. Newman.

Mr. W. Newman: Well, we will come up with a figure, will we?

Mr. Shibley: We will come up with the evidence upon which you can formulate some conclusions, but I think it is important to Mr. Moog and Canada Square as well, as important to Hydro, for this evidence to be reviewed. Would you not agree with me, Mr. Moog?

Mr. Moog: Oh, I agree wholeheartedly, Mr. Shibley. I like the subject we are on.

Mr. Shibley: I realize that. I want, though, before we do break, I just want to touch on something. You have referenced the Y and R Properties submission repeatedly. They referenced the All State head office building and the IBM computer centre as an example of the type of building they were going to construct. Now that building was designed by Webb Zerafa, and they are a highly qualified and highly regarded architectural firm?

Mr. Moog: No question about that.

Mr. Shibley: And in fact their design for those buildings received a design award?

Mr. Moog: I don't know about that but that is possible.

Mr. Shibley: Yes, and it wasn't an award for semi-industrial type buildings as you put in your opening statement, it was a design award for office building?

Mr. Moog: Mr. Shibley, I haven't seen the award but I can tell you only one thing. I have been through the building ~~you~~ referred to. Tamblin Mitchell as a matter of fact, tried to demonstrate ~~the assistance~~ ^{their system} of air conditioning which our engineers quickly picked apart and that was the end of that. And it is a semi-industrial building, it is built for machinery, it is built

August 27, 1973
12.35-12.40 p.m.
M.F.

H - 1798 - 3

(Mr. Moog)

for computers; it's got --

Mr. Shibley: Well, Mr. Moog, that is your statement-----

Mr. Moog: There is no question about that, it is a very - it is a different type of building altogether, and I think for that purpose it is a very good building and if Webb Zerafa got an award for that, that is probably quite justified. I don't argue that. I argue the point to give that type of building to Hydro on University and College with people in it, mainly people, that is my point.

Mr. Shibley: Well, Mr. Moog, the point I am trying to make is that the award they got was for an office building award.

Mr. Moog: For that sort of office building, perhaps, because there are lots of semi office buildings in the environment of Toronto which contain so much office space and so much warehouse and industrial space.

Mr. Shibley: Are you telling us also that Webb Zerafa considered your system and rejected it for the All State building?

Mr. Moog: I don't know. I have never talked to Webb Zerafa so I couldn't answer that.

Mr. Shibley: I wasn't sure what you meant by your last answer.

Mr. Moog: No, I have never talked to them. I know they are good architects.

Mr. Shibley: Yes. And in receiving that award that building was compared with other office buildings throughout the city.

Mr. Moog: I don't think at all for the type of office building we are comparing the Hydro building with, which is basically the Bank of Commerce building, that sort of office building. That is a different thing altogether.

August 27, 1973
12.35-12.40 p.m.
M.F.

H - 1798 - 4

Mr. Shibley: Did you want to disseminate some further information in writing so we can read it over the lunch hour?

Mr. Moog: I can do it after lunch or I can do it -----

Mr. Shibley: No, no, I thought if you were going to do it why don't you distribute it now so we can read it.

Mr. Genest: Well just a minute, sir, I have had a look at what Mr. Moog wanted to disseminate and I would like to have the lunch hour to look at something that purports to be taken from Hydro figures that I don't approve of at all.

Mr. Moog: I am sorry about that, Mr. Genest.

~~Mr. Genest: So let's~~

Tape H - 1799 follows

H-1799-1

August 27/73
12.40-12.45 p.m.
E.M.

(Mr.Genest)

~~lunch hour is lost but it is something that reports to be taken
from him. I don't approve of it at all.~~

~~Mr. Genest: I am sorry about that.~~

Mr. Genest: So let's - this thing?

Mr. Bullbrook: This internal bickering has to stop.

Mr. Genest: Well, I have the greatest objection to
this thing ---

Mr. Chairman: I don't mind a little bickering *that*
~~because~~ I do not have to rule too hardly on ~~the~~

Well, all right, we will recess now to reconvene at
two o'clock.

(Tape 1800 follows)

APPEARANCES

Committee members:

J.N. Allan
J.E. Bullbrook
I. Deans
M. Gaunt
L.C. Henderson
R.G. Hodgson
W. Hodgson
J.P. MacBeth (Chairman)
W. Newman
J.A. Renwick
G.W. Walker

Clerk of the committee:

Paul Moore

Committee counsel:

R.E. Shibley, QC

Assistant to committee counsel:

J.P. Bell

Ontario Hydro counsel:

Pierre Genest, QC
James McCallum, QC

Canada Square counsel:

Douglas Laidlaw, QC
Gregory Rice
G.D. Finlayson, QC

President, Tamblyn Mitchell and Partners Ltd.:

Lorne S. Mitchell

President, Canada Square Corp. Ltd.:

Gerhard W. Moog

List of exhibits introduced during this sitting appears on the next page.

INDEX TO EXHIBITS

Exhibit	Page	Description
201.	1774-2	Correspondence file - Tamblyn Mitchell and Partners Ltd. - re Ontario Hydro Head Office Building.
202.	1781-2	Cost Plan - April 25, 1973 - Hanscomb Roy Associates - re Ontario Hydro head office building
203.	1782-2	Preliminary estimate - May 17, 1973 - Hanscomb Roy Associates - re Ontario Hydro head office building
204.	1786-1	Revised preliminary estimate - May 17, 1973 - Hanscomb Roy Associates - re Ontario Hydro head office building
205.	1786-2	Letter - July 9, 1973 - From A. Johnston, Canada Square Corp. Ltd. to H. Rasmussen, Hanscomb Roy Associates - re Ontario Hydro head office building
206.	1791-1	Estimated cost of Ontario Hydro head office building - by Canada Square Corp. Ltd.
207.	1792-2	Letter - July 4, 1973 - From L.S. Mitchell, Tamblyn Mitchell and Partners Ltd., to H. Rasmussen, Hanscomb Roy Associates
208.	1795-1	Architect's statement - July 20, 1973 - "The difference between the Canada Square Air-Conditioning System and the Y and R Compartment System".

BINDING SECT. NOV 15 1974

